

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION Nos.41974 & 32550 OF 2022

COMMON ORDER:

The W.P.No.41974 of 2022 is filed seeking the following relief:

“.....to issue writ order or direction more particularly one in the nature of writ of certiorari calling the records relating to file No.K/6229/2017 dated 14.02.2022 on the file of the respondent No.3 in granting occupancy right certificate in favour of the respondents Nos.5 and 6 for the land in Survey No.652 extent Ac.5.14 guntas situated at Nasurlluabad Village, Jadcherla Mandal, Mahaboobnagar District, on the ground they are being the successors in interest of inamdars (no application filed for ORC) and declaring them as absolute owners and possessor of the lands by virtue of unregistered sale deed dated 15.09.1985 executed by the petitioners and regularized by MRO, Jadcherla in File No.C/5288/1995 dated 06.04.1998 (which is set aside by the respondent No.3 in File No.B/ROR/2212/2013 dated 27.07.2017) as well as ORC granted vide ORC No.K/6229/2017 dated 18.09.2018 (which is set aside by the respondent No.2 in file No.F2/IA-01/2019 dated 22.11.2019) and without issuing any notice and beyond the scope of the jurisdiction as arbitrary and illegal and in violation of the principles of natural justice and contrary to the

Order dated 06.01.2020 in W.P.No.29170/20 and further contrary to the provisions of the TS Abolition of Inams Act, consequently, set aside the same and direct the respondent No.3 to issue ORC in favour of the petitioners and pass.....”.

02. The W.P.No.32550 of 2022 is filed seeking the following relief:

“.....to issue writ order or direction more particularly one in the nature of writ of certiorari calling the records relating to the File Case No.D1/30/2020 dated 30.05.2021 (served on 30.07.2021) on the file of the respondent No.2 in allowing the Revision filed by the respondents Nos.6 and 7 challenging the Order of the respondent No.4 vide File No.B/ROR/2212/2013 dated 22.07.2017 on the ground of new ROR Act 2020 which was already merged in the order passed by respondent No.5 vide Proc.No.B/13474/2017 dated 16.11.2017 and merged with the order passed by the respondent No.4 vide file No.K/6229/2017 dated 18.09.2018 and further merged with the order passed by the respondent No.3 vide No.F2/IA-01/2019 dated 22.11.2019 and confirmed in the W.P.No.29170/2020 regarding the land in Survey No.652 extent Ac.5.37 guntas situated at Nasurullabad Village, Jadcherla Mandal, Mahaboobnagar District, without assigning any reasons and without hearing by the respondent No.2 on 31.03.2022 and without considering any of the

objections as arbitrary and illegal and in violation of the principles of natural justice and consequently to set aside the order passed by the respondents Nos.2 and 3 vide Case No.D1/30/2020 dated 30.05.2022 and pass.....”.

03. Since the lis involved in both these Writ Petitions and the parties are one and the same, both the Writ Petitions are heard together and decided by way of this Common Order. The parties as referred in W.P.No.41974 of 2022 are taken for the sake of convenience.

04. Heard Sri Gudi Madhusudhan Reddy, learned counsel for the petitioners, learned Assistant Government Pleader for Revenue and Sri L Harish, learned counsel for the unofficial respondents Nos.5 and 6.

05. The Lis involved in both these Writ Petitions has a checkered history.

06. As per the kasara pahani of the year 1954-55, the land admeasuring Ac.5.17 guntas situated at Nasurullabad Village of Jadcherla Mandal, Mahaboobnagar District, (hereinafter referred to as ‘subject property’) is classified as

‘chowtha inam’. As per the pahanies copies upto the year 1990-91, the names of Sri Vadla Balaiah, Sri Vadla Rangaiah and Smt. Vadla Satyamma were recorded as kathadars and inamdars. From the year 1993-94, in the pahani copies the names of the petitioners i.e., Sri Vadla Balaswamy, Sri Vadla Narsimulu and Smt. Vadla Janakamma, children of Sri Kalappa were recorded as kathadars and pattadars.

07. The unofficial respondents i.e., M Srinivas Reddy and M Sridhar Reddy are claiming that they have purchased the subject property under Simple Sale Deed dated 15.09.1985 executed by the petitioners possession was also delivered in their favour and that they are in possession of the subject property. They have applied for regularization of the said Simple Sale Deed dated 15.09.1985 and after following due procedure laid down under the law, the respondent No.4/Tahsildar, Jadcherla Mandal, had issued regularization proceedings dated 06.04.1998 and also issued 13B and 13C Certificates.

08. Feeling aggrieved by the said regularization proceedings dated 06.04.1998 the petitioners have preferred appeal under Section 5 (B) of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 hereinafter referred to the ROR, 1971 in File No. B/ROR/2212/2013 on the file of respondent No.3/Revenue Divisional Officer, who in turn, vide Orders dated 22.07.2017 allowed the said appeal and remitted the matter back to the respondent No.4 with a direction to conduct fresh enquiry on the ground that as per the report of the Tahsildar there is no notice served on the interested parties, therefore, the proceedings in File No. C/5288/1995 are not sustainable.

09. On remitting, the respondent No.4, vide Orders dated 16.11.2017 held that the subject property is classified as 'chowtha inam' and the then Tahsildar has not followed the due procedure laid down under the ROR Act and Rules thereunder. The date, nature has not been changed by conferring Rights under the Inam Abolition Act as such the respondent No.4 held that the validation proceedings issued by the then Authority is in contravention of Rule 9 (1) (iv) of

ROR Rules, 1989 and advised the parties to approach the Revenue Divisional Officer, Mahabubnagar for confirmation of Occupancy Rights under the Inam Abolition Act, 1995.

10. Thereafter, the petitioners herein have filed an application under the Inam Abolition Act, 1995 with the third respondent with a request to issue Occupancy Rights Certificate. The petitioners have also made respondents Nos.5 and 6 as parties to the said application. After hearing both sides and examining the records, the third respondent granted Occupancy Rights Certificate under Section 4 (1) read with Section 10 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1956 vide Proceedings File No. K/6229/2017 dated 18.09.2018 in the names of the respondents Nos.5 and 6 in respect of the land admeasuring Ac.2-27 guntas each total Ac.5-14 guntas in Sy.No.652 of Nasurullabad Village, Jadcherla Mandal on Form-III.

11. It is relevant to note that the respondents Nos.5 and 6 have filed a Revision under Section 9 of the Telangana State Rights in Land and Pattadar Pass Book Act, 1971

challenging the Order dated 22.07.2017, which is allowed by the third respondent remitting the matter to the respondent No.4 for fresh enquiry, on the ground that the subject file is not traceable.

12. The respondents Nos.5 and 6 have filed the said Revision before the Joint Collector, Mahabubnagar, after promulgation of ROR Act, on constitution of the Special Tribunals in terms of Section 16 of the Act and G.O.Ms.No.4 Revenue(Assn-I) Department, dated 12.01.2021, the said revision was transferred to the Special Tribunal, Mahabubnagar which in turn dismissed the said Revision vide Order dated 02.02.2021. In compliance with the order dated 18.03.2021 in WP(PIL) No.20 of 2021 Special Tribunal remitted the matter and on putting the respondents Nos.5 and 6 on notice and affording them an opportunity of hearing, passed an Order dated 23.06.2021 holding that as per the revenue records the subject property is classified as Inam land and Tahsildar, Jedcherla has passed mutation in the year 1995 before issuance of Occupancy Rights Certificate.

13. The Occupancy Rights Certificate issued in favour of the respondents Nos.5 and 6 has been set aside by the Joint Collector erroneously and further held that the respondents Nos.5 and 6 have purchased subject property under Simple Sale Deed dated 15.09.1985 and issued 13B and 13C Certificates on 06.04.1998 itself. They are in possession of the property. Therefore, they are treated as rightful owners of the property and allowed the Revision vide Orders dated 23.06.2021.

14. The petitioners herein have filed W.P.No.17492 of 2021 challenging the Orders dated 23.06.2021 of the Special Tribunal, Mahabubnagar District. This Court vide Orders dated 05.08.2021 considering the fact that 13B certificate was issued in favour of the respondents Nos.5 and 6 were set aside; the matter was remanded for conducting fresh enquiry; the proceedings on Occupancy Rights Certificate are also pending before RDO, allowed the Writ Petition setting aside the impugned Orders dated 23.06.2021 and remanded the matter to the Special Tribunal, Mahabubnagar with a direction to consider the issue objectively and decide the

matter on due assessment of the respective submissions made by the parties before Special Tribunal.

15. It is further held that pending consideration of the revision on remand, and pending finalization of the proceedings before the Revenue Divisional Officer on ORC application, the parties are directed to maintain status-quo obtaining as on said date in all respects concerning the subject property.

16. In compliance with the said order, the third respondent has passed impugned endorsement in File No. K/6229/2017 dated 14.02.2022 holding as follows:

01. The respondents Nos.5 and 6 have become absolute owners and possessors by virtue of validation of Simple Sale Deed dated 15.09.1985 executed by the petitioners and regularized by Mandal Revenue Officer, Jadcherla in File No. C/5288/1995 dated 06.04.1998 as well as by virtue of Occupancy Rights Certificate granted vide ORC No. K/6229/2017 dated 18.09.2018 which was set aside but consequent on present denova enquiry the Occupancy Rights Certificate

confirmed under Section 4 of the Abolition of Inams Act, 1995 in favour of the respondents Nos.5 and 6 being successors in the interest of the Inamdaars.

02. The matter was dealt under the old ROR Act 1971, the petitioners herein, who have been apposing being aggrieved with the Orders passed by the MRO, Jadcherla in F.No.C/5288/1995 and subsequent entries made in Record of Rights in favour of the respondents Nos.5 and 6.

03. Aggrieved parties were at liberty to institute a civil Suit against the persons denying or interested to deny their title to such right for declaration of their rights as provided under Section 8(2) of the ROR Act, 1971, but the said provision are repealed. In the present circumstances also if the petitioners are aggrieved with the Record of Rights maintained digitally under Section 3 of the new ROR Act 2020, they may seek remedy of their grievance before the Competent Civil Court, as the Revenue Courts being quasi-judicial, have no jurisdiction to decide title over the land under reference.

17. Challenging the said Endorsement dated 14.02.2022 of the respondent No.3, the petitioners have filed W.P.No.41974 of 2022.

18. In compliance with the Order dated 05.08.2021 in W.P.No.17492 of 2021, the Special Tribunal, Mahabubnagar District passed orders dated 23.06.2021 in a Revision filed under Section 9 of the ROR, 1971 by the respondents Nos.5 and 6 challenging the Orders dated 22.07.2017 of third respondent.

19. The Special Tribunal, Mahabubnagar in Orders dated 23.06.2021 held as follows:

01. The respondents Nos.5 and 6 have purchased the subject property under a Simple Sale Deed dated 15.09.1985 and obtained regularization proceedings in File No. C/5288/1995. The said proceedings were set-aside by respondent No.3 vide orders dated 22.07.2017 in File No.B/ROR/2212/2013.

02. As per the orders dated 20.06.2019 in File No.K/6229/2017 of third respondent issued ORC in favour of the respondents Nos.5 and 6 vide orders dated 22.09.2019 in File.No.F2/1A-01/2019

set-aside the aforesaid said ORC issued by the Revenue Divisional Officer, Mahbubnagar and remanded back with a direction to conduct denovo enquiry and pass appropriate orders.

03. As per the Revenue Records the subject land is classified as Inam land and the respondent No.4/Tahsildar, Jadcherla has passed mutation in the year 1995 vide File No.C/5288/1995 before passing the ORC and the said ORC issued in favour of respondents Nos.5 and 6 also been set-aside by the then Joint Collector, Mahabubnagar erroneously. Since the respondents Nos.5 and 6 are already issued 13B and 13C certificates by the fourth respondent and they are also in possession of the subject property and they are treated as the rightful owners of the subject property.

20. With the above said findings, the Special Tribunal, Mahabubnagar, allowed the revision filed by the respondents Nos.5 and 6.

21. Challenging the said Order, the petitioners have filed W.P.No.32550 of 2022.

22. Sri Gudi Madhusudhan Reddy, learned counsel for the petitioners, would submit that the third

respondent/Revenue Divisional Officer, Mahabubnagar, passed impugned Endorsement dated 14.02.2022 under the provisions of ROR Act, 1971 erroneously. The respondents Nos.5 and 6 are claiming that they have purchased the subject property from the petitioners under Simple Sale Deed dated 15.09.1985. Therefore, they are not entitled to obtain Occupancy Rights Certificate.

23. Learned counsel for the petitioners placed reliance on an unreported Judgment of this Court dated 14.06.2021 between **K Chandra Prakash and another v. The Joint Collector, Ranga Reddy District and others**¹, and Full Bench Decision of this Court dated 21.11.2022 between **the Executive Officer, Group of Temples, Wanaparthy, Mahabubnagar District v. The Joint Collector, Mahabubnagar and others**². Therefore, the claim of the respondents Nos.5 and 6 is illegal. The said aspects were not considered by the third respondent/Special Tribunal, Mahabubnagar in the impugned Order in both the Writ

¹ W.P.No.28720 of 2008 and 9027 of 2009 of this Court

² W.P.Nos.913 of 2002, 3329 of 2006 and 3376 of 2010 and W.A.Nos.1531 and 1608 of 2004, 543 and 547 of 2021 of this Court

Petitions. The respondents have no jurisdiction to declare the respondents Nos.5 and 6 as absolute owners and possessors of the subject property. Both the impugned Orders are not on considering the factual aspects and they are erroneous and also illegal.

24. The observations made by the respondent No.4 are contrary to the Orders dated 06.01.2020 in W.P.No.29170 of 2019. Both respondent No.3 and Special Tribunal failed to appreciate that on remitting the matter vide orders dated 22.07.2017, the respondent No.4 has passed orders dated 16.11.2017 and there is no challenge to the same. Therefore, both the impugned orders are liable to be set aside.

25. Whereas, the learned Assistant Government Pleader for Revenue, on instructions, would submit that both the respondents and Special Tribunal have passed impugned Orders on considering the entire material available on record and on submissions made by parties, the provisions of the ROR Act, 1971 and the Abolition of Inams Act, 1956. There are serious disputes with regard to the title and therefore, the

parties have to approach Civil Court instead of do so, they have filed the present Writ Petitions.

26. Whereas Sri L Harish, learned counsel for the respondents Nos.5 and 6, while adopting the arguments of the learned Assistant Government Pleader for Revenue, would supplement that Sri Ram Kishan and two others have filed O.S.No.183 of 2006 against the respondents Nos.5 and 6 and Sri Gunna Jagadeshwar Reddy maternal uncle of the respondents Nos.5 and 6 seeking declaration and consequential injunction. In the said suit, first petitioner herein filed I.A.No.85 of 2014 praying to implead him as party to the said suit and vide Orders dated 05.11.2014, the learned Junior Civil Judge at Jadcherla dismissed the said application on the ground that the if the petitioner is having any interest and dispute in execution of Simple Sale Deed dated 15.09.1985, he is at liberty to take steps by way of filing civil suit and he cannot implead in the above suit. The petitioner No.1 herein failed to challenge the said Order.

27. Ultimately, the said suit was dismissed on 10.08.2018. The respondents Nos.5 and 6 have obtained regularization proceedings by duly following the procedure laid down under the law and there is no error in it. The said aspects were considered by the respondents and the Special Tribunal, Mahabubnagar and there is no error in it. With the said submissions, he sought to dismiss both the Writ Petitions.

28. As discussed supra, the respondents Nos.5 and 6 are claiming that they are the absolute owners and possessors of the subject property on the strength of the Simple Sale Deed dated 15.09.1985, obtained regularization proceedings in File No.C/5288/1995 dated 06.04.1998.

29. According to the petitioners, they have not executed the said Simple Sale Deed dated 15.09.1985 and the respondents Nos.5 and 6 have created the said Simple Sale Deed dated 15.09.1985 taking advantage that the petitioners are staying in Mahaboobnagar.

30. It is relevant to note that the recording authority under the ROR Act, 1971 or ROR Act, 2020 and quasi judicial authority under the provisions of the Inam Abolition Act cannot consider the said aspect of fraud, creation of documents etc.,

31. The respondents have filed copy of Simple Sale Deed dated 15.09.1985 along with receipt signed by the petitioners and witnesses. They have also filed challan to show that they have remitted fee while obtaining the regularization proceedings dated 06.04.1998. They have also filed a copy of the statements of the petitioners before Mandal Revenue Officer, wherein the petitioners have specifically stated with regard to the sale of subject property to the respondents Nos.5 and 6 under Simple Sale Deed dated 15.09.1985 and they do not have any objection in mutating the names of the respondents Nos.5 and 6 in respect of the subject property in revenue record.

32. The respondents Nos.5 and 6 also filed copies of 13B and 13C Certificates to show that the respondent No.4

had issued proceedings dated 06.04.1998 by putting the petitioners and respondents Nos.5 and 6 on notice and affording them an opportunity of hearing and also the said regularization proceedings are issued after following the due procedure contemplated under the ROR Act, 1971.

33. As discussed supra, recording authority cannot consider the allegation of the petitioners that they have not executed the Simple Sale Deed dated 15.09.1985 and the respondents Nos.5 and 6 have created the same by forging their signatures and by playing fraud.

34. If the petitioners are aggrieved by the said Simple Sale Deed dated 15.09.1985, they have to approach competent Civil Court by way of filing a suit and they cannot seek adjudication of the said issue by recording authority under the ROR Act, 1971.

35. With regard to the contention of the learned counsel for the petitioners that the respondent No.3 had issued proceedings by following the due procedure laid down under the ROR Act, 1971 and the said mutation proceedings

endorsement dated 14.02.2022 issued by third respondent is illegal.

36. As discussed supra, the Joint Collector, Mahaboobnagar vide Orders in F2/1A-01/2019 dated 22.11.2019 allowed Inam Appeal filed by the petitioners under Section 24 (1) of the Telangana Area Abolition of Inams Act, 1955, setting aside the ORC proceedings in File No.K/6229/2017 dated 18.09.2018 of third respondent granting Occupancy Rights Certificate in favour of the respondents Nos.5 and 6 in respect of the subject property. Vide Orders dated 22.11.2019 the Joint Collector, Mahaboobnagar remitted the matter back to the third respondent with a direction to conduct denova enquiry after providing adequate opportunity to the both parties and pass appropriate Orders as per provisions under the Telangana State Abolition of Inams Act, 1955.

37. Whereas third respondent vide impugned endorsement in File No. K/6229/2017 dated 14.02.2022 held that the matter was dealt under ROR Act, 1971, aggrieved

parties are at liberty to institute a suit against the persons denying or interested to deny their title to such right for declaration of their rights as provided under Section 8 (2) of the ROR Act, 1971. Therefore, the said finding that the respondents Nos.5 and 6 are absolute owners by virtue of Simple Sale Deed dated 15.09.1985 executed by the petitioners and regularized by the respondent No.4 is sustainable.

38. As discussed supra, if the petitioners are aggrieved by the Simple Sale Deed dated 15.09.1985, they have to file a suit, but they cannot seek adjudication of the said aspects of fraud and forgery from the recoding authorities under the ROR Act. Just because, the third respondent held that the matter was dealt under old ROR Act, 1971, the petitioners cannot seek to set aside the said endorsement dated 14.02.2022 by declaring it as illegal.

39. There are serious disputes between the petitioners and the respondents Nos.5 and 6 with regard to the title of the subject property and these aspects cannot be considered

by the Recording Authority and the same are to be considered by the competent Civil Court.

40. Learned counsel for the petitioners would contend that as on the date of said Simple Sale Deed dated 15.09.1985, both the petitioners and the respondents Nos.5 and 6 are minors and therefore, the same is not valid. Again the said aspect is a serious disputed fact which the recording authority cannot consider and it is for the Civil Court to consider the same.

41. It is relevant to note that Sri Ram Kishan and two others have filed O.S.No.183 of 2006 against the respondents Nos.5 and 6 and Sri Gunna Jagadeshwar Reddy, maternal uncle of the respondents Nos.5 and 6 seeking declaration and consequential injunction declaring them as absolute owners of the subject property and also for perpetual injunction. In the said suit, first petitioner herein filed I.A.No.85 of 2014 seeking to implead him as party to the said suit and vide Orders dated 05.11.2014 the learned Junior Civil Judge at Jadcherla dismissed the said Interlocutory Application.

42. Perusal of the said IA order would reveal that the said Sri Ram Kishan and two others contended that the father of the respondents Nos.5 and 6 purchased the said property in the name of the respondents Nos.5 and 6 in the year 1985 under the unregistered sale deed from the original pattadar. Father of the respondents Nos.5 and 6 was in possession and cultivated the said property. In the year 2001, they have purchased the subject property from the respondents Nos.5 and 6 under unregistered sale deed, since then they are in peaceful possession and enjoyment of the same. The respondents Nos.5 and 6 in collusion with Sri Gunna Jagadeshwar Reddy maternal uncle of the respondents Nos.5 and 6 created false gift deed. Therefore, they have filed the said suit seeking declaration and perpetual injunction.

43. The respondents Nos.5 and 6 and their material uncle, Sri Gunna Jagadeshwar Reddy filed counter contending that they have executed a gift deed in favour of the said Sri Gunna Jagadeshwar Reddy. Ultimately, the said suit was dismissed on 10.08.2018 on merits.

44. The said aspect would reveal that even according to the said Ram Kishan and two others, they have purchased the said property from the respondents Nos.5 and 6 under unregistered sale deed. The respondents Nos.5 and 6 have executed gift deed in favour of Sri G Jagadeshwar Reddy, their maternal uncle. The said aspects were not brought to the authorities concerned during proceedings under ROR Act, 1971 and under the Telangana Area Abolition of Inams Act, 1955. Thus the said aspects were not considered by the Revenue Divisional Officer and Special Tribunal, Mahaboobnagar, since these aspects were not brought to their notice. Again, those aspects are serious disputed facts and there are serious disputes with regard to title of the subject property, which neither recording authority under the ROR Act nor the quasi judicial authority under the Telangana Area Abolition of Inams Act, 1955, can consider. It is for the competent Civil Court to consider the said aspects.

45. Aforesaid aspects would reveal that the petitioners and respondents Nos.5 and 6, Sri G Ram Kishan and two others are claiming the title over the subject property. The

said aspects cannot be considered by the Recording Authority and ROR Act, 1971 and the Telangana Area Abolition of Inams Act, 1955. Therefore, both the third respondent and the Special Tribunal, Mahaboobnagar, in the impugned Orders rightly held that if the petitioners are having grievance, they have to approach the competent Civil Court by way of filing suit for redressal of their grievance. Therefore, according to this Court there is no error in the said orders.

46. With regard to the contention of the learned counsel for the petitioners that the respondents Nos.5 and 6 being the purchasers cannot be treated as Inamdars and cannot obtain ORC proceedings. There is no quarrel with regard to the said principle in view of the aforesaid recent Judgment cited by the petitioners. But the facts in the present case are different.

47. The respondents Nos.5 and 6 are claiming that they have purchased the said property under the Simple Sale Deed dated 15.09.1985 and they have obtained regularization proceedings in File No.C/5288/1995 dated 06.04.1998. If the

petitioners are having any grievance of the said proceedings, they have to approach the competent Civil Court.

48. In the light of the aforesaid discussion, there is no error in the impugned Endorsement dated 14.02.2022 of the third respondent and Order dated 30.05.2022 of the Special Tribunal, Mahaboobnagar. The petitioners failed to make out any case to interfere with the said Orders. Therefore, both the Writ Petitions are liable to be dismissed.

49. Accordingly, both these Writ Petitions are dismissed. Consequently, the status-quo order dated 22.11.2022 shall stand vacated. However, liberty is given to the petitioners to workout their remedies by way of approaching the competent jurisdictional Civil Court.

As a sequel, the Miscellaneous Petitions, pending if any, shall stand closed.

K. LAKSHMAN, J

Dated: 05-JUN-2023
KHRM