

HIGH COURT OF ANDHRA PRADESH**Bench: Hon'ble Mr. Justice Dhiraj Singh Thakur, Chief Justice & Hon'ble
Mr. Justice R. Raghunandan Rao****Date of Decision: 4th April 2024**

WRIT APPEAL No.1140 of 2023

Gudipudi Hanumayamma (Died) (per L.Rs.2 to 4)**Abburi Venkata Subbamma, W/o. Ramaiah, Aged about 63 years,
R/o.H.No.5-10, Main Road Mangamuru, Prakasam District and 2 others.
...Appellants****Versus****The State of Andhra Pradesh,
Revenue Department,
Rep.by its Principal Secretary,
Secretariat Buildings,
Amaravati & 4 others. ...Respondents****Legislation:**Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (Sections
5-A, 5-B, 6-A)**Subject:** The subject matter of the appeal is the cancellation of pattadar
passbook and title deed of the appellant by Revenue Divisional Officer (RDO)
and Joint Collector, which was challenged in the High Court.**Headnotes:**

Land Transaction & Dispute – Appellant's acquisition of land through
unregistered sale deed followed by regularization under Section 5-A of ROR
Act – Subsequent cancellation of pattadar passbook and title deed by RDO
and Joint Collector on appeal by the 5th respondent claiming forgery and
fraud. [Para 3]

Jurisdictional Error in Appeal – Revenue Divisional Officer and Joint Collector’s orders challenged – Division Bench of the erstwhile High Court of Judicature at Hyderabad held no appeal against issuance of pattadar passbook and title deed under Section 6-A of ROR Act – Appeal before the 3rd respondent-Revenue Divisional Officer against issuance of pattadar passbook under Section 6-A found not maintainable. [Paras 6-7]

Decision – Writ Appeal allowed – Orders of Revenue Divisional Officer and Joint Collector set aside due to lack of jurisdiction – Parties left to seek appropriate remedies before the appropriate forum in accordance with law – No order as to costs. [Para 8]

Referred Cases:

- Ratnamma vs. The Revenue Divisional Officer, Dharmavaram, Ananthapur District and two Others

Representing Advocates:

Appellants: Mr. Posani Venkateswarlu on behalf of Mr. V. Disha Chowdary

Respondents Nos. 1 to 4: G.P for Revenue

Respondent No.5: Mr. G.R. Sudhakar on behalf of Mr. V. Vinod K Reddy

JUDGMENT

Dt:04.04.2024

(per Hon’ble Sri Justice R.Raghunandan Rao) Heard Sri Posani Venkateswarly, learned Senior Counsel appearing on behalf of Sri V. Disha Chowdary, learned counsel for the appellants, the learned Government Pleader for Revenue, appearing for respondents 1 to 4 and Sri G.R. Sudhakar, learned counsel appearing on behalf of Sri V. Vinod K. Reddy, learned counsel for respondent No.5.

3. The case of the appellants is as follows:

- a) The writ petition was initiated by Smt. Hanumayamma, who has passed away and her legal representatives have been brought on record. However, the facts are being considered, for ease of convenience, by referring to her as the appellant. The husband of the appellant along with others, including the husband of the 5th respondent herein are said to have jointly purchased Ac.54.31 cents of land in various survey numbers of Atmakuru Village. Subsequently, there was a partition under which the husband of the appellant as well as the husband of the 5th respondent were allotted separate pieces of land. One such piece of land which was allotted to the husband of the 5th respondent was Ac.5.41 cents in Sy.No.5591B. The husband of the 5th respondent had taken a hand loan from the husband of the appellant which remained unpaid and amounted to Rs.27,998/- by accrual of interest on the original principal amount of Rs.10,000/-.
- b) The husband of the 5th respondent as repayment of the said loan amount executed an unregistered sale deed dated 02.10.1982 handing over physical possession of an extent of Ac.3.40 cents in Sy.No.559-1B out of Ac.5.41 cents held by the husband of the 5th respondent. After taking possession of the land, the appellant had filed an application under Section 5-A of Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (hereinafter referred as 'ROR Act'). The Tahsildar, Atmakur, before whom this application has been made, issued notices to the concerned parties and had validated the unregistered sale deed obtained by the appellant and issued certificates in form 13 B and 13 C, on 06.07.1999, directing the appellant to pay registration charges and stamp duty of Rs.1,676/-. Thereafter, the name of the appellant was entered in 1-B register and issued pattadar pass book and title deed in favour of applicant in the year 1999.
- c) The 5th respondent after a period of more than 16 years, filed an appeal, on 21.08.2015, before the 3rd respondent-Revenue Divisional Officer contending that the appellant had created a bogus document and had obtained pattadar pass book and title deed on the basis of the said bogus document and consequently, the pattadar pass books and title deeds require to be cancelled. The 5th respondent had also taken a plea that the husband of the 5th respondent had only given the land for the purpose of the appellant to recover her money and to return the land upon the debt of the husband of the 5th respondent being satisfied.

d) The Revenue Divisional Officer took on record the appeal and numbered it as Rc.B.No.3070/2015. The Revenue Divisional Officer after hearing both sides came to the conclusion that the document claimed by the appellant to be a sale deed was in fact an agreement and not a proper sale deed. The Revenue Divisional Officer also observed that the file relating to form-13 B and 13 C certificates was not available and it was not clear as to whether notices had been served on all the concerned parties including the husband of the 5th respondent, before issuance of the aforesaid certificates. The Revenue Divisional Officer, in the absence of this material, took the view that notices were not served. On the basis of these findings, The Revenue Divisional Officer cancelled the pattadar pass book and title deed given to the appellant. The Revenue Divisional Officer, had also held that there was a dispute as to whether the signature of the husband of the 5th respondent on the relevant documents was a forgery or not and relegated the parties to the Civil Court for determination on this issue.

e) Aggrieved by the said order, both sides approached the 2nd respondent-Joint Collector by way of revisions under Section 9 of ROR Act.. The Joint Collector, without considering the revision of the appellant had considered and allowed the revision of the 5th respondent, by an order dated 14.08.2016 in D.Dis.No.426/2016. In this order, the Joint Collector took the view that the Revenue Divisional Officer having held that the documents produced by the appellant did not give any title to the appellant ought to have also given a direction for issuance of pattadar pass book and title deed in favour of the 5th respondent and there was no need for reference to a Civil Court.

f) Aggrieved by the said orders, the appellant had approached this Court, by way of W.P.No.37537 of 2016. The contention of the appellant, before the learned single judge was, that the Revenue Divisional Officer could not have considered a request for cancellation of pattadar pass book and title deed after a lapse of more than 16 years. The further contention was that the appeal filed before the Revenue Divisional Officer was not maintainable. The case of the appellant was that the relief sought by the 5th respondent, in an appeal filed under Section 5(5) of the ROR Act, for cancellation of the pattadar pass book and title deed is not maintainable as no appeal would lie under

Section 5(5) or any other provision of the ROR Act against the issuance of pattadar passbook and title deed under Section 6-A of the ROR act.

3. The appellant contended that the appellant had obtained regularisation of the unregistered deed of sale under Section 5-A of the ROR Act, against which an appeal is provided under Section 5-B of the ROR Act. But there is no appeal provided against issuance of pattedar pass book and title deed under Section 6-A of the ROR Act. The appellant relying upon the judgment of a Division Bench of this Court in *Ratnamma vs. The Revenue Divisional Officer, Dharmavaram, Ananthapur District and two Others*¹ would contend that appellate order and revisional order are not maintainable and require to be set aside.
4. The 5th respondent contended that the document on the basis of which the appellant had obtained regularisation under Section 5-A of the ROR Act is not a sale deed which can be regularised under Section 5-A of the ROR Act and further the said document is a forgery which needs to be set aside. It was the contention of the 5th respondent that in case of such fraud or fabrication, the matter can always be adjudicated by this court and in any event, failure to issue notices under Rule 22 by the 4th respondent-Tahsildar before regularisation under Section 5-A of the ROR Act renders the order of regularisation in favour of the appellant null and void as it violates the principles of natural justice. The learned Single Judge after going into these questions and after examining the document of alienation, relied upon by the appellant, had given certain findings of fact and had held that in such circumstances, the contentions of the appellant cannot be accepted. On this basis, the learned Single Judge dismissed the writ petition by way of an order dated 04.08.2023.
5. Aggrieved by the said order, the present appeal has been filed by the appellant. A perusal of the order of the 3rd respondent Revenue Divisional Officer dated 11.01.2016 and the subsequent revisional order of the 2nd respondent-Joint Collector dated 14.08.2016 reveals that both the authorities were considering the question of cancellation of the pattadar pass book and title deed of the appellant herein. No other relief appears to have been sought by the 5th respondent.

¹ (2015) 6 ALD 609 (DB) : (2015) 5 ALT 228

6. A Division Bench of the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, in Ratnamma vs. The Revenue Divisional Officer, Dharmavaram, Ananthapur District and two Others, after a review of the provisions of the ROR Act had held that there was no appeal against the issuance of pattadar pass book and title deed under Section 6-A of the ROR Act. In the present case, the appeal, before the 3rd respondent-Revenue Divisional Officer, was only against the issuance of pattedar pass book under Section 6-A of the ROR Act. In view of the Judgment of the Division Bench in Ratnammas case, such an appeal is not maintainable.

7. In the circumstances, following the ratio laid down by the Division Bench in Ratnamma's case, it must be held that the proceedings of the 3rd respondent,- Revenue Divisional Officer dated 11.01.2016 are without jurisdiction and have to be set aside. Consequently, the revision filed against the said order dated 11.01.2016 would also be without jurisdiction and the order dated 14.08.2016 issued by the 2nd respondent-Joint Collector would also have to be set aside.

8. Accordingly, the Writ Appeal is allowed setting aside the order of the learned Single Judge and the orders of the Revenue Divisional Officer, dated 11.01.2016 and the Joint Collector dated 14.08.2016, while leaving it open to the parties to seek appropriate remedies before the appropriate forum in accordance with law. Needless to say, any findings given by either the learned Single Judge or this Court are only for the purpose of disposal of the proceedings before this Court and cannot be relied upon by either party before any of the authorities or the Court that they may approach. There shall be no order as to costs.

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*Disclaimer: Always compare with the original copy of judgment from the official website.

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As a sequel, pending miscellaneous petitions, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ

R. RAGHUNANDAN RAO, J

RJS

W.A. No.1140

of 2023

HON'BLE MR. JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE R. RAGHUNANDAN RAO

WRIT APPEAL No.1140 of 2023

(per Hon'ble Sri Justice R. Raghunandan Rao)

Dt: 04.04.2024

RJS