

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE Mr. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE

&

HON'BLE Mr. JUSTICE R. RAGHUNANDAN RAO

WRIT APPEAL No.302 of 2023

K. Venkata Nagamani, Kilakaparthi Venkata Ramana (died),
Kilaparthi Bhaskar, S/o. Kilaparthi Suri Appa Rao, Hindu, aged
about 53 years, Occ: Agriculture, Devarapalli village and Mandal,
Visakhapatnam, and others

... Appellants

Versus

The Government of A.P., Revenue Department, represented by its
Principal Secretary, Secretariat, Hyderabad, and others

... Respondents

JUDGMENT (ORAL)

Dt:21.03.2023

(Prashant Kumar Mishra, CJ)

Petitioners' writ petition, calling in question the legality and validity of the order passed by the 1st respondent vide proceedings Memo No.9159/Assn.II/2020 dated 23.02.2015, affirming the order passed by the 2nd respondent vide Proc.BCWS/292/2007 dated 01.08.2009, which, in turn, had affirmed the order passed by the 3rd respondent vide Proc.R.C.No.3876/90-E3 dated 22.05.2007, has been dismissed by the learned single Judge on the ground that in a long litigation pertaining to the property, petitioners have lost in almost all the courts on the ground that assignments were obtained by them by using influence and playing fraud on the revenue

authorities, giving rise to filing of this writ appeal under clause 15 of the Letters Patent.

2. Facts of the case, pithily stated, are that petitioners were assigned land to an extent of Ac.5.00 cents each in Sy.No.20 of Devarapalli Village and Mandal, Visakhapatnam District, by the Tahsildar concerned, on 24.08.1979. According to the petitioners, since the land was hill *poramboke*, they made the same fit for cultivation by levelling it after clearing the wild bushes and shrubs; however, basing on the complaint of third parties, the Tahsildar cancelled the assignments on the ground that the assignments were obtained by misrepresentation. Such cancellation was challenged in W.P.No.14884 of 1987, wherein directions were issued to the Tahsildar to conduct fresh enquiry after affording opportunity of hearing to the petitioners. Subsequently, enquiry was duly conducted by the Joint Collector and assignment was cancelled vide proceedings dated 19.12.1994, which was confirmed by the 2nd respondent-Chief Commissioner of Land Administration, A.P. The revision filed by the petitioners there-against before the 1st respondent-Government, was allowed setting aside the order of the 2nd respondent and remanding the matter back to the Joint Collector, who, again, passed order dated 22.05.2007 cancelling the assignments made in favour of the petitioners, which was confirmed by the 1st respondent-Government vide Memo

No.9159/Assn.II/2020 dated 23.02.2015, impugned in the writ petition.

3. It appears, the subject land is classified as *Billalamma Poramboke* whose assignment was obtained by the petitioners under *Dharkast* rules for agricultural purpose claiming to be landless poor. The villagers filed complaint alleging that though petitioners are affluent, rich and ineligible, they obtained D-Form Pattas concealing their ineligibility, by misrepresentation of facts. In the enquiry, Joint Collector found that assignment was made irregularly and contrary to the *Dharkast* rules as the petitioners were not eligible to obtain assignments; they belong to one and the same family, related to each other and already possess lands amongst them to a large extent; therefore, they are not eligible to obtain assignments of the subject land.

4. Apart from the fact as observed by the learned single Judge that there was long litigation pertaining to the subject land from the year 1987 till date, i.e. for almost 40 years, it is also to be seen that petitioners have challenged concurrent orders by all the authorities, which is ordinarily not interfered in writ jurisdiction as held by the Hon'ble Supreme Court in ***B.K. Muniraju v. State of Karnataka and others - (2008) 4 SCC 451***, relevant portion whereof reads thus:

"22. It is settled law that a writ of certiorari can only be issued in exercise of extraordinary jurisdiction which is different from appellate jurisdiction. The writ jurisdiction extends only to cases where orders are passed by inferior courts or tribunals or authorities in excess of their jurisdiction or as a result of their refusal to exercise jurisdiction vested in them or they act illegally or improperly in the exercise of their jurisdiction causing grave miscarriage of justice. In regard to a finding of fact recorded by an inferior tribunal or authority, a writ of certiorari can be issued only if in recording such a finding, the tribunal/authority has acted on evidence which is legally inadmissible, or has refused to admit an admissible evidence, or if the finding is not supported by any evidence at all, because in such cases the error amounts to an error of law. It is needless to mention that a pure error of fact, however grave, cannot be corrected by a writ."

5. The petitioners have not placed any material before this Court to substantiate their case that the orders passed by the official respondents suffer from any perversity rendering such orders fit for interference under Article 226 of the Constitution of India.

6. In view of the foregoing reasons, writ appeal is liable to be, and is, accordingly, dismissed. No order as to costs. Pending miscellaneous applications, if any, shall stand closed.

Sd/-

Sd/-

PRASHANT KUMAR MISHRA, CJ

R. RAGHUNANDAN RAO, J

MRR