



HIGH COURT OF ANDHRA PRADESH
WEDNESDAY ,THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY TWO
PRESENT
THE HONOURABLE SRI JUSTICE D.V.S.S.SOMAYAJULU
WRIT PETITION NO: 7980 OF 2020

Between:

1. The State of Andhra Pradesh Rep by its Principal Secretary, Revenue Department, Secretariat, Bldgs, Velagapudi, Vijayawada.
2. The District Collector, Chittoor Chittoor District
3. The Revenue Divisional Officer, Tirupati, Chittoor District.
4. The Tahsildar, Tirupati Rural Mandal, Chittoor District.

...PETITIONER(S)

AND:

1. M.Chinnapamma w/o Late M.Krishna Murthy, aged about 70 years, R/o D.No.49, Nehru Street, Tirupati, Chittoor District.
5. M.Kalavathi W/o Late M.Srinivasulu , R/o D.No.49, Nehru Street, Tirupati, Chittoor District
6. M.Padmalatha W/o Late M.Subramanyam R/o D.No.49, Nehru Street, Tirupati, Chittoor District
7. Y.Balachandraiah R/o D.No.49, Nehru Street, Tirupati, Chittoor District
8. The Settlement Officer, Nellore
Now presently Joint Collector Cum Settlement Officer, Chittoor, Chittoor District.
9. The Director of Settlements, A.P. Currency Nagar, Vijayawada.
10. The Commissioner of Appeals 0/o Chief Commissioner Land Administration, A.P. Gollapudi, Vijayawada.

...RESPONDENTS

Counsel for the Petitioner(s): GP FOR REVENUE (AP)

Counsel for the Respondents: SUBBA RAO KORRAPATI

The Court made the following: ORDER



*** HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU**

+ WRIT PETITION No.7980 of 2020

and

C.C.No.56 of 2020

% 16th February, 2022

W.P.No.7980 of 2020

The State of Andhra Pradesh and 3 others

... Petitioners..

AND

\$ M.Chinnapamma and 6 others

... Respondents.

! Counsel for the Petitioners

: Government Pleader for
Revenue

^ Counsel for the 1st to 4th respondents : Sri Subba Rao Korrapati

^ Counsel for the 5th to 7th respondents : Government Pleader for
Assignment (AP)

< Gist:

> Head Note:

? Cases referred:

1. (2007) 4 SCC 221
2. AIR 1996 Karnataka 991
3. (2004) 8 SCC 588
4. (1994) 1 SCC 1
5. (2001) 2 SCC 160



HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

W.P.No.7980 of 2020

and

C.C.No.56 of 2020

COMMON ORDER:

This Writ Petition is filed for the following relief:

“...to issue a Writ, order or direction, especially one in the nature of Writ of Mandamus, declaring the orders dated 11.07.2019 and 02.03.2013 in P1/1315/1999 of the Commissioner of Appeals, Vijayawada i.e., 7th respondent and the order dated 09.06.1999 in R.P.No.9/94HI of the 6th respondent i.e., Director of Settlements AP. And orders dated 13.04.1982 of 5th respondent i.e., Settlement Officer, Nellore at present Joint Collector cum Settlement Officer, Chittoor issued without following the provisions of the A.P. Estate Abolition Act, 1948 as unlawful and unjust suffering the communal interests and principles of Natural Justice and Article 330-A of the Constitution of Indi and consequently set aside the said impugned orders.”

This Court has heard the learned Government Pleader for Revenue appearing for the petitioners, Sri Subba Rao Korrapati, learned counsel for respondents 1 to 4 and the learned Government Pleader for Assignment for Respondents 5 to 7.

Learned Government Pleader for Revenue along with his submissions filed a note mentioning the dates and sequence of events. It is his contention that the land in Sy.No.91/4 of Daminedu Village is classified as Government Poramboke land and is registered is kunta poramboke. The possession of the petitioner is also strongly denied by the learned Government Pleader. The crux of the matter as per him is that the Settlement Officer's order, dated 13.04.1982, is



vitiated by a fraud and very serious allegations are made against the said Settlement Officer. It is also stated that in view of the fraudulent activity of the Settlement Officer, Government also issued orders directing the Collectors not to implement the orders of the said Officer. It is particularly asserted that he has granted a ryotwari patta for a water body ignoring the law on the subject and also the Board Standing orders. Learned Government Pleader draws the attention of this Court to all these issues and in particular raises an issue of delay in entertaining the matter by the Settlement Officer. It is also asserted that the land in Sy.No.91/4 is vacant land. Learned Government Pleader also relies upon the well known judgment of the Hon'ble Supreme Court of India in **A.V. Papayya Sastry and others v Government of A.P. and others**¹ to argue that where fraud has been committed it will vitiate all the transactions and all orders. Learned Government Pleader, therefore, argues that this is a fit case in which the Court should interfere and set aside the orders dated 11.07.2019 of the Commissioner of Appeals (7th respondent), the order dated 09.06.1999 of the Director of Settlement along with order of the 5th respondent, dated 13.04.1982. Thus, the prayer in the Writ Petition is to set aside an order that was passed in 1982 which was confirmed by two other officers.

¹ (2007) 4 SCC 221



In reply to this learned counsel for the respondent Sri Subba Rao Korrapati relies upon the counter affidavit filed. He points out that from 1982 onwards the issue has been hanging in the air and despite the orders passed by higher-ups in the department on merits and also the Courts of competent jurisdiction the issue is still not decided. Learned counsel also points out that the order of the Settlement Officer is an order passed on merits of the matter after considering the oral and documentary evidence. This has been confirmed more than once by competent officers including the present respondents. A patta was initially set aside in April, 1990. The matter was remanded in 1994 and ultimately on 09.06.1999 the order passed in favour of Mr.M.Krishna Murthy, the husband of the 1st respondent was upheld. It is clearly held in that said order that the land is “ryoti” in nature and has been in possession and enjoyment of the respondents. Learned counsel points out that against the order dated 09.06.1999 a revision was filed before the 7th respondent, who dismissed the same by his orders dated 15.07.2000. He points out that even the Commissioner of Appeals held that the possession and title of the present respondent’s predecessors is clear and he find no reason to interfere with the orders of the 7th respondent. W.P.No.1981 of 2000 was filed, which was disposed of on 09.09.2009 remanding the matter back to the Commissioner of Appeals. The Commissioner of Appeals, vide his orders dated



02.03.2013, confirmed the orders passed by the Director of Settlement.

Challenging the same, Writ Petition was filed in W.P.No.15671 of 2013, which was dismissed. Against the same a W.A.No.486 of 2016 was filed, which was also dismissed on 29.06.2016. Learned counsel, therefore, argues that the State is constantly agitating the matter only with a view to deny the legitimate claims of the respondents and that there are no merits in the case. He argues that there is no fraud in the present case at all. He argues that the same is not pleaded or proved. He points out that after the Contempt Application was moved in C.C.No.66 of 2020, the present Writ has been filed. Therefore, he prays for dismissal of the Writ Petition.

COURT:

After considering all the facts this Court notices that the order passed by the Settlement Officer dated 13.04.1982 is an order passed on merits. It considers the oral and documentary evidence. Three witnesses were examined and five documents were exhibited. In the primary order on 13.04.1982 the Settlement Officer noted the pre-abolition records and also the fact that the lands are ryotwari patta lands from the beginning. He states that they are known locally as "Gujjareddy" lands as the Gujjareddy is the name of the grandfather of PW1. It is clearly noted in the order that



the counter filed by the Tahsildar supported the case of the petitioner. Therefore, he held that there is no Government interest in the land. As mentioned in the arguments of the learned counsel the matter was underwent a number of revisions / challenges etc. The *suo moto* revision was dismissed on 09.06.1999 by a Special Commissioner and Director of Settlement, who is an officer of the Indian Administrative Services. In this order also a discussion of the case and its facts were undertaken before the Commissioner who came to the conclusion that the land is “ryoti” in nature and it has been in continuous possession and enjoyment of the respondents from 1914 onwards. It was also held that the classification of the land as Kunta Poramboke is contrary to the facts of the case. A revision was also filed against this order which resulted in the order dated 15.07.2000, which was assailed in Writ Petition No.1981 of 2000, in which this Court remanded the matter to the 7th respondent. Again in the remand a detailed order was passed on 02.03.2013. the issue about the orders of the Settlement Officer was discussed. The fact that this order was upheld was noticed. In para 11/12 after considering the evidence he came to definite findings. It is interesting to note that the order was passed by the Chief Commissioner of Land Administration, who is also an IAS officer. He did not file any valid reason to allow the case and it was dismissed. Assailing this Writ Petition No.15671 of 2013 was also filed. A learned single



Judge of this Court decided the matter by his orders dated 29.02.2016. The counters filed by the State reiterated that the land is 'Kunta Poramboke' that the claim petition could have been filed after the stipulated period etc. The allegation of corruption and fraud against the Settlement Officer was also raised as a ground. All of these issues raised were considered by the learned single Judge, who held that he did not find any merits in the Writ Petition. Against this order a Writ Appeal was filed in W.A.No.486 of 2016. The Division Bench vide its orders dated 30.06.2016 dismissed the Writ Appeal. The finding of the Commissioner after remand that there is no Government interest in the schedule land is noticed by the Division Bench. The Division Bench held that the Government failed to show that it had any interest in the property. It also stated that it is not explained why the appellants are coming to the Courts again and again when they have no interest in the property. As rightly pointed out by this learned counsel for the respondents, these orders have become final. Thereafter, a representation was filed by the respondent as the same was not considered the Writ Petition No.30710 of 2017 was filed, in which a direction was given to the respondents to consider the representation made by the parties. As this order was not complied with C.C.No.799 of 2018 was filed and Tahsildar then passed an order on the revision. Questioning the same W.P.No.26496 of 2018 was filed by the 1st respondent. This Writ Petition was allowed



setting aside the endorsement dated 30.03.2018 refusing the petitioners representation and directing the Tahsildar to consider the implementation of ryotwari patta after the revision petition was disposed. As this order was not complied C.C.No.56 of 2020 was filed.

These facts are being set out in detail to show that the issue has been kept pending from 1982 when the Settlement Officer granted a patta and allowed the claim application by his orders, dated 13.04.1982. An appraisal of all the proceedings show that even till date the Government did not file adequate or correct material to show that the initial order dated 13.04.1982 is vitiated by fraud or otherwise. The allegations of fraud are made against the officer, who passed that order in April, 1982. No clear proof is filed to show how this particular order of 1982 is vitiated by fraud. The State is also overlooking the fact that two very senior bureaucrats, holding responsible positions in the State, have confirmed the orders passed by the Settlement Officer. They did not find anything incorrect or wrong in the said orders. The State which had the opportunity to assail the findings of the Settlement Officer could not succeed before the two officers who were vested with the immediate jurisdiction to decide the matter. The same conclusions resulted even after remand. Thereafter, the State filed the Writ Petitions, in which it was also held that the orders passed by the Settlement Officer are correct. The possession of the claimants and their



predecessors from 1914 was noticed. In W.P.No.15671 of 2013 from paragraph 11 onwards the evidence was discussed and thereafter the conclusions of the Settlement Officer were upheld. In paragraph 14 the issue of delay was also discussed. Ultimately, the learned single Judge came to the conclusion that there are no merits in the Writ Petition. In W.A.No.486 of 2016 also these findings were confirmed. The effect of these orders is striking and clear. Once the matter has been decided by a competent authority and thereafter upheld by Courts of competent jurisdiction this Court is of the opinion that the issues cannot be reopened on the tenuous ground that is now advanced.

The ground that is advanced now is one of fraud. The law on the subject is very clear and if fraud vitiates a transaction it can be set aside. Even the most solemn acts can be vitiated by the fraud. But fraud is not a matter of simple assertion. It is a matter of clear pleading and proof. Allegations of fraud are more easily made than they are proved. In fact, as the Civil Procedure Code also applies to the writ proceedings as per the Writ Rules, the pleadings with regard to fraud should be very specific and clear. The fraud should be pleaded and proved with certainty. In fact, a learned single Judge of the Karnataka High Court in a Judgment report in **Savithamma v H.Gurrappa Reddy**² held that standard of proof in matters of fraud is very high. It

² AIR 1996 Karnataka 991



borders almost on proof beyond reasonable doubt as in a criminal trial. The other leading judgments on pleading fraud and proof with regard to fraud are **A.C.Anantha Swamy and others v Boraiah (Dead) by LRs³, S.P.Chengalvaraya Naidu V Jagannath⁴** etc. If the present case is examined against the backdrop of these cases it is clear that except some said bald allegations that are made about fraud there are no clear, categorical pleadings are there. The evidence necessary to prove fraud is also not there. How and why the order dated 13.04.1982 is vitiated by 'fraud' is to be proved by clear evidence. The photocopies of the documents filed cannot be treated as "proved". Pre-abolition records are not produced and proved. Even otherwise this Court while exercising functions under Article 226 of the Constitution of India cannot enter into such a seriously disputed question of fact. This finding is supported by the decision in **Life Insurance Corporation of India and others v Smt. Asha Goel and Another⁵**. The allegations made do not prove that a fraud occurred in April, 1982 when the impugned order was passed. A reading of the 1st order shows that the Settlement Officer consider the oral and documentary evidence before coming to the conclusion. He also relied upon the counter filed by the Tahsildar / Revenue which also supported the case of the claimants before him. How and when "fraud" was

³ (2004) 8 SCC 588

⁴ (1994) 1 SCC 1

⁵ (2001) 2 SCC 160



committed in coming to this conclusion is not borne out by the records. Why the area is called after “Gujjareddy” is considered in the 1982 order itself. The revenue record of 2017 was not considered to be good evidence to establish the land is kunta (para 9 of the order dated 11.07.2019). It was also clearly held that the review petitioners failed to establish fraud. Even after these findings this Court finds that there is no clear pleading or proof of the fraud. The documents filed by the petitioner are not adequate to prove fraud. Documents ante lite motam or after the case are to be very carefully viewed. Their probative value is very low. They have to be necessarily proved. The subsequent confirmation of this order by the revisional appellate authorities and by the Courts also goes against the finding of fraud. For all the above reasons, this Court holds that the petitioners have not made out a case for interference. The pleading and proof are both inadequate. This is a case in which exemplary costs must be awarded. But considering the passion with which the learned Assistant Government Pleader argued the matter and his effort to convince the Court costs are not being imposed. The Writ Petition is, therefore, dismissed.

Coming to C.C.No.56 of 2020 this Court does not find any merit in the submissions made by the respondents also. The respondent’s perception of fraud is not borne out by the record. By alleging fraud, the respondents in contempt application failed to comply with the order of this Court.



The Writ Petition that was filed is being disposed today. While holding that the respondents has not obeyed this Court's Order, a chance is given to the respondents in C.C.No.56 of 2020 to comply with the order of the learned single Judge, dated 28.01.2019, and for the implementation / granting of the proper ryotwari patta within six weeks from the date of receipt of a copy of this order. This chance is given to the respondents to purge her contempt. With these observations the Writ Petition is dismissed and the Contempt Case is allowed. There shall be no order as to costs.

Consequently, the Miscellaneous Applications, if any, pending shall stand closed.

D.V.S.S.SOMAYAJULU, J

Date:16.02.2022.

Note: LR Copy be marked
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