

APHC010421162024



IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI

[3508]

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIRST DAY OF MARCH

TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT APPEAL NO: 817/2024

Between:

Medarametla Venkata Sesha Reddy

...APPELLANT

AND

The State Of A.P and Others

...RESPONDENT(S)

Counsel for the Appellant:

1.N ASHWANI KUMAR

Counsel for the Respondent(S):

1.GP FOR HOME

2.GP FOR REVENUE

3.NIMMAGADDA REVATHI

This Court made the following Judgment:

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

The appellant herein had filed O.S.No.76 of 2015, against the 5th respondent, before the Principal District Judge, Nellore, for partition of land situated in various survey numbers of Brahmanakraka Village,

Jaladanki Mandal, SPSR Nellore District. An injunction restraining alienation of the suit schedule property, is said to have been issued in I.A.No.200 of 2015, in the said suit. The trial and arguments in the suit are said to have been completed and the suit was reserved for Judgment, on 27.04.2023, by the Principal District Judge, Nellore and the same is pending for Judgment.

2. The appellant, approached this Court, by way of W.P.No.17278 of 2024, on the ground that the respondents had executed nominal sale deeds in favour of respondents 7 to 11, at the instigation and under the guidance of respondent No.6, for the purposes of depriving the claims, of the appellant, over the said land.

3. The appellant further contends that the Tahsildar, Jaladanki Mandal, in proceedings bearing Rc.No.915/2019 had issued an endorsement, in September 2021, which was challenged by the 6th respondent, as G.P.A holder of respondents 9 and 10, before this Court by way of W.P.No.14865 of 2022. However, no orders were passed in the said writ. Thereafter, the wife of the appellant is said to have filed W.P.No.32470 of 2022, to stop the 6th respondent from evicting the petitioner and his wife, from the residential house occupied by them, on the basis of a sale deed executed by the 5th respondent. An interim direction is said to have been issued by this Court, on 30.09.2022.

4. The appellant states that he had approached respondents 2 and 3, namely the District Collector and the Tahsildar to place the property in question, in the dispute register and accordingly, the same was entered into the dispute register bearing No.78 of 2012 by proceedings dated 28.10.2021. The appellant contends that the Tahsildar, at the instance of the 6th respondent, had removed the said lands from the dispute register and such an action is clearly impermissible and requires to be set aside.

5. The learned Assistant Government Pleader for Revenue, obtained written instructions and placed them before the learned Single Judge. The written instructions stated that there was no direction from any competent authority, to keep the subject lands in a dispute register and that the subject lands were never included in the dispute register. In the circumstances, there was no valid case for the appellant as the lands were never entered in the dispute register itself. The learned Single Judge after recording these instructions had taken the view that the apprehension of the appellant is misplaced, especially in view of the fact that there was an interim direction granted by the Principal District judge, Nellore, on 18.09.2019 and dismissed the Writ Petition.

6. Aggrieved by the said order of dismissal, the appellant has approached this Court, by way of the present Writ Appeal. The primary

ground of appeal by the appellant is that the Tahsildar, by proceedings, dated 28.10.2021, had informed the appellant that the lands were included in the dispute register. The Appellant has produced the information obtained by him, under the Right to Information Act, showing that certain digital signatures, made in relation to the land in question, had been revoked.

7. The Respondents No. 6 to 11 had filed a counter affidavit. In this Counter affidavit it is stated that the trial court, while granting an injunction, in I.A.No. 200 of 2015, had observed that various items of the suit schedule property had already been sold by the 5th respondent to the respondents 6 to 11 and granted injunction only in relation to the unsold items in the suit schedule and not the entire suit schedule property. The respondents 6 to 11 would submit that the appellant has suppressed this fact by producing an extension order, instead of the initial order of injunction, as the initial order would have revealed that the injunction was granted against the unsold items of the suit schedule and could not have been entered in the dispute register as there was no injunction against the alienation of these properties. The respondents also contend that the properties in question could not have been entered in the dispute register as the necessary directions to include them in the dispute register had not been issued by any competent court.

8. This Court, with a view to verify the statutory basis, of a dispute register, had sought further information from the respondents. The 1st respondent had filed an affidavit along with the guidelines for disposal of mutation applications dated 09.04.2022, 29.04.2024 and 19.03.2024. It is stated that dispute registers are being maintained under Rule 32 of the AP ROR Rules, 1989. It was further stated that certain circulars have also been issued, setting out some guidelines for entering any lands under these dispute registers.

9. Under Standing Order No. 219(b), the Registrar can refuse registration if the High Court of Andhra Pradesh or any other Civil Court restrains a person from alienating the property if such orders are brought to the notice of the registering officers or served on the registering officer. Memo No.1/Gen.1/2010, dated 10.03.2010, issued by the Commissioner and Inspector General of Registration and Stamps, Andhra Pradesh had directed all registering officers to scrupulously follow the Standing Order No.219(b). This regulation relates to registration of documents and would have no relevance to the issue of maintenance of a dispute register by the Revenue department.

10. Section 8, of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 reads as follows:

8. Bar of Suits.

(1)

(2) If any person is aggrieved as to any rights of which he is in possession by an entry made in any record of rights he may institute a suit against any person denying or interested to deny his title to such right for declaration of his right under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963) and the entry in the record of rights shall be amended in accordance with any such declaration.

Rule 32 of the ROR Rules, 1989, reads as follows:

“Every person proceeding under Sec. 8(2) of the Act shall intimate to the Mandal Revenue Officer concerned the particulars of the suit. The Mandal Revenue Officer shall enter the details of the suit in a register in Form XVIII. On the disposal of the suit, the Party shall communicate a copy of the order on the suit to the Mandal Revenue Officer who shall enter the details in the register in Form XVIII. The register in Form XVIII shall be open for inspection, and the certified extracts of the same shall be granted.”

11. The Register, that is to be maintained under Rule 32, relates only to suits filed under Section 8(2) of the ROR Act. Section 8(2) states that a person can file a suit against any other person who denies his title or right to a property, on the basis of entries made in the record of rights. From the language of Section 8(2), suits that fall within the ambit of Section 8(2) of ROR Act are those suits which arise when a person, on the basis of entries made in the record or rights, denies or takes steps to deny title of the aggrieved person.

12. The Chief Commissioner, Land Administration had issued circular instructions dated 09.04.2022 in CCLA Circular Ref.No.LR-

II/ROR-II/144/2021. These guidelines related to disposal of mutation applications. Guideline No.8 touched upon pendency of litigation in the following manner:

“No case shall be rejected or kept pending in a court case matter, in the absence of a clear direction from the court of law staying further action in the matter. However, in such case, after disposal of the case and mutating the records, the land shall be kept in the prohibitory order book, till disposal of any pending court case. Such cases shall be monitored by creating a separate module in webland, and the case shall be closed only after the court passes orders on the matter.”

13. The Chief Commissioner of Land Administration, subsequently issued another circular wherein the aforesaid guideline was withdrawn and fresh guidelines regarding the lands, which may be placed in the dispute register, and the circumstances in which lands can be placed in the dispute register were set out. Apart from this, the guidelines set out the procedure to include the land in a dispute register and procedure to delete lands from the dispute register. Subsequently, another circular dated 19.03.2024 had been issued setting out the guidelines for inclusion and deletion of land from the dispute register. The guidelines set out in the circular are extracted below:

File No REV02-12022/190/2022-AS-LRAP&LRUC-CCLA

Office of the Chief Commissioner of
Land Administration AP, Mangalagiri

CCLA's circular Ref. No.LR-II/ROR-II/144/2021, date: 19.03.2024

Sub: ROR- Maintenance of Dispute Register-Instructions earlier issued are withdrawn and new instructions issued- regarding.

Ref: CCLA's circular instructions Ref. No.LR-II/ROR-II/144/2021, date:09.04.2022 (ToC 473)

The Attention of the Collectors in the state is invited to the reference cited wherein the following instructions have been issued (at second point of SL No.8 of the Circular mentioned above) regarding Mutations to be taken up in case of a case pending before a court of law stating that **"No case shall be rejected or kept pending in court case matter in the absence of a clear direction from the court of Law staying further action in the matter. However, in such cases, after disposal of the case and mutating the records, the land shall be kept in the prohibitory Order Book, till disposal of any pending court case. Such cases shall be monitored by creating a separate Module in Webland and the case shall be closed only after the Court passes order on the matter"**. These instructions are withdrawn with immediate effect.

In continuation of the previous instructions, the following additional instructions are issued regarding placing lands (Survey numbers/LPMs) in the Dispute Register. In case of any conflict on the aspect of placing lands in the dispute register with any previous instructions, the following instructions will prevail.

A: Lands may be placed in the dispute register only under the following circumstances, and under no other circumstances.

- a. In civil suits/WPS/WAs where there is a direction by the competent civil court/Hon'ble High Court, directing the Tahsildar/Collector to place the said land in the Dispute register.
- b. In the case of Title Suits, where there is a specific direction from the Civil Court.
- c. If the family members of a deceased pattadar are unable to come to a settlement AND the Tahsildar is unable to obtain a Joint Statement from all the family members regarding settlement of the lands of deceased pattadar, the same may be included in dispute register. In case of a civil court order deciding upon the succession or the family members coming to an agreement on the division of property, the Tahsildar shall remove such

lands from the dispute register and incorporate the same in the revenue records.

d. Cases where an ROR appeal/review has been filed and is pending before the DRO/JC respectively, and there is a clear direction from the DRO/JC directing that the said land be included in the dispute register, the said lands may be included in dispute register till the appeal/review is finally decided and orders passed. After orders are passed, the Tahsildar shall remove such lands from the dispute register and incorporate the orders in the revenue records.

e. Cases where an Inam appeal/review is pending with RDO/Commissioner-Appeals respectively, and there is a clear direction from the RDO/Commissioner-Appeals directing that the said land be included in the dispute register, such lands shall be included in the dispute register. After orders are passed, the Tahsildar shall remove such lands from the dispute register and incorporate the orders in the revenue records.

f. Cases where an Estate abolition appeal/review is pending with CSSLR/Commissioner-Appeals respectively, and there is a clear direction from the CSSLR/Commissioner-Appeals directing that the said land be included in the dispute register, such lands shall be included in the dispute register. After orders are passed, the Tahsildar shall remove such lands from the dispute register and incorporate the orders in the revenue records.

g. Cases under the AP Assigned Lands (POT) Act 9/77, where Appeals/Reviews/Revision are pending with Joint Collector/Commissioner-Appeals/Government respectively, and there is a clear direction from the Joint-collector/Commissioner-Appeals/Government directing that the said land be included in the dispute register, such lands shall be included in the dispute register. After orders are passed, the Tahsildar shall remove such lands from the dispute register and incorporate the orders in the revenue records.

h. Cases under Regulation 2/70, where Appeals/Reviews are pending with CSSLR/Commissioner-Appeals respectively, and there is a clear direction from the CSSLR/Commissioner-Appeals directing that the said land be included in the dispute register, such lands shall be included in the dispute register. After orders are passed, the Tahsildar shall remove such lands from the dispute register and incorporate the orders in the revenue records.

B: Procedure to include Lands in Dispute register

In each case where lands qualify to be included in the dispute register in accordance with section-A above, and in no other case, the Tahsildar shall upload evidence of the same and submit the same to the Joint Collector, through the RDO concerned. After due examination the Joint Collector shall

pass appropriate orders directing that the said lands be placed in the dispute register or otherwise.

C: Procedure to delete Lands from the Dispute register

In each case where lands are required to be deleted from the dispute register, the Tahsildar shall upload evidence of the same and submit the same to the Joint Collector, through the RDO concerned. After due examination the Joint Collector shall pass appropriate orders directing that the said lands be removed from the dispute register or otherwise.

D: Citizens shall be permitted to file applications requesting that lands, qualifying in terms of section A, and where they have an interest, be included in the dispute register along with required evidence. The same shall be examined by the Tahsildar and submitted to the Joint Collector through the RDO, for necessary orders.

E. Necessary software applications required will be provided by GSWS Department and Webland team. The Director GSWS Department and PD CMRO are requested to roll out the software immediately.

These Instructions shall come into force immediately and the Collectors are requested to inform all Tahsildars and RDOs to implement them scrupulously. They may organise a one-hour training by video conference so that the instructions percolate to the last mile.

**G SAI PRASAD I A S,
CC(GSP), O/O CHIEF COMMISSIONER-
CCLA Chief Commissioner**

To

All the Collectors in the state

The Director GSWS Department Vijayawada for necessary action The PD CMRO
O/O CCLA 1 floor APIIC Building Mangalagiri@ Vijayawada for necessary action

Copy to Commissioner of Survey Settlements and Land Records 4th Floor APIIC
Building Mangalagiri

**SECTION OFFICER REVENUE
DEPARTMENT A.P.
SECRETARIAT**

14. A minor change was brought in by a subsequent circular dated 24.09.2024 replacing guideline A(b) with the following:

“In the case of Title suits, where full court fee stamp has been paid and the Tahsildar has been made party to the suit and the Tahsildar has been issued a notice by the concerned civil court (all three conditions need to be satisfied), even though there is no specific directions from the court”.

15. The guidelines issued by the Chief Commissioner of land administration do not trace their power to any statutory provision of law. In such circumstances the only provision that can be applied would be Rule 32 of the ROR Rules, which requires the details of suits filed under Section 8 (2) of the ROR Act to be included, in a register maintained for this purpose. This would mean that the above guidelines, would not apply to suits which fall outside the provisions of Section 8(2) of the ROR Act. In the present case, the suit in question is a suit for partition and does not, in any manner, falls under the provisions of Section 8(2) of the ROR Act. Consequently, there would be no question of including the land, which is sought to be partitioned, in the dispute register.

16. In that view of the matter, the guidelines of the Chief Commissioner, Land Administration cannot result in all kinds of suits being entered into the dispute register maintained under Rule 32 of the ROR Rules.

17. While there does not appear to be any statutory backing for the guidelines set out by the Chief Commissioner, Land Administration, for disputes and suits falling outside Section 8(2) of the ROR Act, we would hasten to add that there is a pressing need for the creation of a dispute register in which any dispute between parties over land, is recorded, to protect innocent third parties, purchasing such land, from being dragged into such litigation or by virtue of accepting such property as security for any loans that may be advanced. It would be appropriate, if the government were to consider this pressing need and establish a statutory basis for the creation of a dispute register with rules set out for inclusion of dispute register with rules set out for inclusion and removal of properties from such a dispute register. We may also observe that such dispute register may be used as a reference point for verification of title and for verification if there is a cloud over the title of the person claiming ownership over the land. It may not be appropriate to insist that properties entered in the dispute register cannot be alienated. Any such stipulation, may result in power being granted to revenue authorities to decide title of the claimants.

18. For all the aforesaid reasons, nothing further survives in this Writ Appeal and it is accordingly dismissed. There shall be no order as to costs.

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

JUSTICE R.RAGHUNANDAN RAO

JUSTICE MAHESWARA RAO KUNCHEAM

RJS

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

&

HON'BLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

WRIT APPEAL NO: 817 of 2024

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

Dt: 21.03.2025

RJS