

(2006) 09 AP CK 0014

Andhra Pradesh High Court

Case No: Writ Petition No. 16174 of 2006

Velupadas Veeraswamy

APPELLANT

Vs

The Secretary, Revenue
Department, State of Andhra
Pradesh and Others

RESPONDENT

Date of Decision: Sept. 22, 2006

Acts Referred:

- Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 - Section 166B
- Andhra Pradesh District Collectors Powers (Delegation) Act, 1961 - Section 3, 4, 5
- Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 - Section 2, 2(9), 6A
- Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 - Rule 3

Citation: (2007) 1 ALD 435

Hon'ble Judges: V.V.S. Rao, J

Bench: Single Bench

Advocate: M.N. Narasimha Reddy, for the Appellant; Assistant Government Pleader for Respondents 1 to 3 and Bankatlal Mandhani, for Respondents 4 and 5, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

V.V.S. Rao, J.

The petitioner herein assails the order of the second respondent, namely, the District Revenue Officer (DRO), dated 16.06.2006. In exercise of powers u/s 166-B of A.P.(Telangana Area) Land Revenue Act, 1317 Fasli (the Revenue Act, for brevity), the second respondent directed the third respondent to rectify the entries in Pahanis for the year 1986-1987 and restore the same in favour of respondents 4 and 5. By impugned order, the second respondent also advised respondents 4 and 5 to approach competent authority for cancellation of Pattadar Pass Books (PPBs) and title deeds issued to the petitioner.

2. The brief fact of the matter is as follows. The petitioner herein is resident of Khajipet, Warangal District. He purchased land admeasuring Acs.1.36 guntas in survey Nos. 331 and 332 (old survey Nos. 154 and 156) of Khajipet village under registered sale deed, dated 25.09.1978 from G.Lakshma Reddy and Dayananda Reddy, sons of Narasimha Reddy. Respondents 4 and 5 are daughters of the said Narasimha Reddy. The petitioner also obtained PPBs and title deeds from the third respondent under A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the ROR Act, for brevity) and also got the property mutated in his name, as a result of which, necessary entries were made in Pahanis and other revenue records. Respondents 4 and 5 approached the second respondent and filed an application for rectification of entries in Pahanis alleging that their father Narasimha Reddy bequeathed his property under a Will towards Pasupukunkam and sought for cancellation of entries/mutation. The second respondent issued notice to the petitioner, who filed counter denying the ownership and possession of respondents 4 and 5. After considering the matter, the second respondent passed the impugned order.

3. The writ petition is filed inter alia contending that the second respondent is not competent authority to conduct enquiry u/s 166-B of the Revenue Act and that being lower in rank to the District Collector and Settlement Commissioner, he has only powers to put up the file before the District Collector. The same submission is reiterated strenuously by the learned Counsel for the petitioner. At the stage of Admission itself, this Court ordered notice to respondents 4 and 5 inviting affidavit from them. They filed counter affidavit before this Court on 07.09.2006 disputing the petitioner's contention. They relied on the provisions of A.P. District Collector's Powers (Delegation) Act, 1961 (hereafter called, the Delegation Act) and the notification issued by the Government of Andhra Pradesh vide G.O.Ms. No. 563, dated 22.05.1985 authorising the District Revenue Officers and Additional District Magistrates to exercise all powers vested in the District Collector under the Revenue Act.

4. After considering the Revenue Act, Delegation Act and the relevant notification issued by the Government, this Court is of considered opinion that the writ petition is misconceived. The submission of the learned Counsel for the petitioner that the DRO of the District is not competent to exercise powers u/s 166-B of the Revenue Act cannot be countenanced.

5. So as to provide for delegation of powers by the District Collectors to Joint Collectors and certain other officers in the State of Andhra Pradesh, the State Legislature enacted Delegation Act. Sections 3 to 5 read as under.

3. Delegation of powers of District Collector:- The State Government may, by notification in the Andhra Pradesh Gazette authorise any Joint Collector or any other officer of the State Government not below the rank of Deputy Collector to exercise all or any of the powers vested by or under any law in the District Collector and may in like manner, without such authorisation;

Provided that no authorisation under this section shall prevent the District Collector from exercising in such cases as he deems fit, all or any of the powers exercisable by the Joint Collector or other officer by virtue of the authorisation aforesaid:

Provided further that where in respect of any case, the District Collector exercises his powers, the Joint Collector or other officer authorised under this section shall not exercise his powers in respect of the same case.

4. Appeal and revision against orders of the Joint Collector:- Any order of the Joint Collector or other officers acting in exercise of the powers authorised u/s 3 shall be subject to such appeal or revision under the relevant provision of the law as if it were an order of the District Collector.

5. Notification to be placed before the Legislature:- Every notification issued u/s 3 shall be laid, as soon as may be after it is issued, before each house of the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be issued, the notification shall thereafter have effect, only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

6. Initially, the Government of Andhra Pradesh issued orders vide G.O.Ms. No. 77, dated 22.01.1968 and notified the same in Part I of A.P.Gazette, dated 10.02.1968 delegating various powers of the District Collector under different Enactments, Rules, Regulations and Standing Orders. Appendix-I thereto enumerates the subjects reserved for District Collectors, Joint Collectors and Personal Assistant to Collector. Appendix-II contains Notification-II (G.O.Ms. No. 77, dated 22.01.1968), whereunder the Government delegated powers of the District Collector to the Joint Collector and these powers relate to the matters enumerated in List II and List III in the Seventh Schedule to the Constitution of India. Under Notification-II thereof, the Governor of Andhra Pradesh authorised District Revenue Officers and Additional District Magistrates to exercise powers vested in the District Collectors inter alia under the Revenue Act. Items 50 to 57 in Notification-II were inserted as per G.O.Ms. No. 563, dated 22.05.1985. Therefore, the submission of the learned Counsel is misconceived.

7. Respondents 4 and 5 claiming to be daughters of late Narasimha Reddy sought for cancellation of PPBs as well as entries in Pahanis. As defined in Clause (6-b) of Section 2 of the ROR Act, "title deed and pass book" means, "the title deed and pass book issued u/s 6-A thereof". The "record of rights" means, "records prepared and maintained under the provisions, or for the purposes of the ROR Act [Section 2(9) of ROR Act]. Nevertheless, as per Rule 3 of the A.P.Rights in Land and Pattadar Pass

Books Rules, 1989 (the Rules, for brevity), Pahanis/Adangals do not constitute record of rights for the village and it only reflects ground position. Rule 3 of the Rules reads as under.

3. Form of Record of Rights:- The Record of Rights shall be prepared and maintained in Form-I for every separate revenue village.

Notes:- Pahani/Adangal does not constitute the record of rights for the village. It reflects ground position including:

(i) name of the cultivator who actually cultivates the land; and

(ii) whether the person in occupation of the land has violated any law and if so, the details of the same.

8. As Pahani/Adandal does not constitute record of rights, the second respondent ordered rectification of the entries but insofar as the cancellation is concerned, not being competent authority, he advised respondents 4 and 5 to approach the competent authority i.e., Joint Collector, Warangal. While doing so, the second respondent acted in accordance with law and the same cannot be faulted. The petitioner or respondents 4 and 5 may approach the Joint Collector for any redressal in the matter of PPBs/title deeds.

9. The writ petition is accordingly disposed of. No costs.