

THE HONOURABLE SMT. JUSTICE M.G.PRIYADARSINI

Civil Revision Petition No.2341 OF 2012

ORDER:

Aggrieved by the order dated 05.05.2012 in Case No.F1/782/2012 passed by the Joint Collector (J), Ranga Reddy District confirming the orders dated 04.12.2011 passed by the Revenue Divisional Officer, Chevella Division in File No. L/3509/2011, dated 04.12.2011, the petitioners filed the present Civil Revision Petition.

2. For the sake of convenience, hereinafter, the parties will be referred as per their array before the Revenue Divisional Officer.

3. The brief facts, which necessitated the revision petitioners to file the present Civil Revision Petition are as under:

a) The petitioners are the absolute owners and possessors of H.Nos.1/65/25/6, 1/65/25/5, 1/65/25/7 and 1/65/25/7 vide document bearing Nos.5152/2000, 5158/2000, 5146/2000 and 5157/2000 having purchased the same from their vendor Smt. Hemalatha Devi, who purchased the same from I. Nagesh and five others including Achaiah i.e., father of respondent Nos.3 to 5) represented by their registered Power of Attorney Holder Sri K. Ramulu under registered documents No.1357/1989, 804 of

1993 and 341 of 1994. The vendor of the petitioners constructed a room in the said property after her purchase. The petitioners have been in peaceful possession and enjoyment of the property without any interruption and also paying municipal tax to the concerned authorities. The watchman of the petitioners resides in the rooms constructed and the properties are protected by a compound wall in part and fenced in part.

b) The petitioners obtained No Objection Certificate from Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad vide Proceedings No. F-13235/NOC/08, dated 05.08.2008, wherein the said authority made it clear that the property is not vested in the Government. The petitioners have applied to GHMC for regularization of their plots under LRS Scheme and accordingly necessary charges were collected and regularized the plots through Proceedings Nos. LRS/472/G/CR-1/West Zone/GHMC/2008, LRS/469/G/CR-11/West Zone/GHMC/2008, LRS/470/G/CR-1/West Zone/GHMC/2008 and LRS/471/G/CR-1/West Zone/GHMC/2008 dated 16.12.2008.

c) The petitioners have also obtained electricity connection to the said property in the year 2008 and paying necessary

charges to the same. On 01.02.2012, the respondent Nos. 3 to 5 threatened the watchman of the petitioners claiming that they have obtained Occupancy Rights Certificate (hereafter will be referred as 'ORC') issued by the respondent No.2. On enquiry they came to know that respondent No.2 had issued proceedings No.L/3509/2011, dated 14.12.2011 favouring respondent Nos.3 to 5 purportedly granting ORC in respect of Ac.0.37 guntas in Sy.No.28 of Gutla Begumpet Village, Serilingampally Mandal on the premise that the their father Sri Achaiah was the inamdar and respondent Nos.3 to 5 being his legal heirs are entitled to the issuance of ORC.

d) The petitioners were not put on any notice, besides the whole proceedings are vitiated by mischief, malafides and non application of mind. Aggrieved by the same, the petitioners have filed appeal under Section 24 of the A.P. (T.A.) Abolition of Inams Act, 1955 (hereinafter will be referred as 'the Act') before the respondent No.1, who granted interim order of suspension and numbered the appeal as Case No.F1/782/2012, however, the appeal was dismissed the said appeal on 05.05.2012. Aggrieved by the same, the petitioners have filed the present Civil Revision Petition.

4. The submissions of learned counsel for the respondent Nos.3 to 5 are as under:

a) The sale deed date 25.10.1995 purported to have been executed by power of attorney holder Sri K. Ramulu representing the father of the respondent Nos.3 to 5 is void and unenforceable document. The father of the respondent Nos.3 to 5 never executed any power of attorney, transferring the property rights. Even assuming that the father of the respondent Nos.3 to 5 executed the power of attorney, he died on 01.01.1995 as per death certificate dated 03.04.2012. As such the question of executing the sale deed bearing No.10680 of 1995 dated 25.10.1995 by the power of attorney holder in favour of the petitioners' vendor does not arise and it is void and unenforceable in law.

b) The father of the respondent Nos.3 to 5 is the inamdar of the property and was in possession of the land on the relevant date as per the provisions of the Act. On the death of their father, the respondent Nos.2 to 5 after due enquiry, the respondent No.2 has granted Occupancy Rights in respect of the lands in Sy. No.28 admeasuring Ac.0.37 guntas in favour of the respondent Nos.3 to 5 vide proceedings Lr. No.L/3509/2011, dated 04.12.2011 as per the provisions of the Act.

c) The petitioners challenging the Occupancy Rights Certificate issued by respondent No.2 in favour of respondent Nos.3 to 5 was challenged before the respondent No.1 under Section 23 of the Act, which is not maintainable. However, the respondent No.1 considered the appeal in proper perspective and gave clear finding that as per the pahanis for the years 1955-58 and 1972-73, name of Sri Achaiah i.e., father of the respondent Nos.3 to 5 was recorded as inamdar, pattadar and enjoyer and the respondent Nos.3 to 5 are entitled to Occupancy Rights.

d) The sale deed, which the petitioners are claiming, executed in the year 2000 in their favour does not confer any interest over the property and they have no *locus standi* to maintain even the appeal before the Appellate Forum. The sale deeds executed in favour of the petitioners are void and unenforceable in law.

e) The reference of the pendency of the matter in civil courts and conveyance deeds has no relevance to the grant of Occupancy Rights as per the provisions of the Act as they are subsequent to the year 1973.

- f) The dispute is with regard to land to an extent of Ac.0.37 guntas in sy. No.28 of Guttala Begumpet Village.
- g) The Revenue Divisional Officer, Chevella has opined that as per pahani for the year 1973-74 the land to an extent of A.0.37 guntas in Sy.No.28 of Guttala Begumpet Village is classified as mafi inam and the Preliminary Enquiry Report discloses that Sri Chittaiah and Sri Agaiah were recorded as inamds (as per se sessala pahani for the year 1955-58 and thereafter Sri Agaiah expired leaving behind his three sons.
- h) The Joint collector, Ranga Reddy District in his order, dated 05.05.2012 observed that as per Section 3 (1)(b)(6) of the Act, 1955 “all the rights, title and interest vesting in the inamdar Kbiz-e-khadim permanent tenant, protected tenant and non -protected tenant in respect of the inam land and other than the interest expressly saved or under the provisions of this act and including those in all communal lands cultivated and uncultivated land” (whether assessed or not) waste lands, pasture lands, forests, mines and mineral, quarries, rivers and streams, tanks and irrigation works, fisheries and ferries shall cease and be vested absolutely in the state free from all encumbrances.” The Joint collector, Ranga Reddy District by

relying upon a decision in **Lokraj v. Kishanalal**¹ observed in the impugned order that any transactions made in respect of inam land are null and void by operation of law till the ORC is granted as per the Act.

5. Heard both sides and perused the record including the grounds under Civil Revision Petition.

6. The crux of the issue to be decided is whether the subject land is inam land or not. The first and primary duty of the official, who can grant Occupancy Rights Certificate is to identify the nature of the land i.e., for instance whether the land is inam land or not. Thus, the Act has prescribed the procedure under Sections 4 to 8 of the Act to be followed to identify the nature of the land. Section 3 of the Act empowers the MRO either *suo moto* or on application to determine whether a particular land is an inam land and whether such inam land is in a ryotwari, zamindari or inam village and whether such inam land is held by an institution. The RDO, in the note file, though mentioned that case may be taken on record under Section 4 (1) of the Act and notices in Form – II may be issued while fixing the date of hearing, has not issued any notice to the interested parties. As on the date of enquiry, there were plenty of records

¹ 1995 SCC-3-29

and documents in respect of the subject land in favour of third parties and the revision petitioners, who have substantial interest in the subject property. But admittedly no notice was issued to any of such third parties or the revision petitioners prior to passing of the impugned orders for the reasons best known to the authorities.

7. As seen from the record, the father of respondent Nos.3 to 5 was already granted Ryotwari Patta way back in the year 1969 vide proceedings in D.Dis.No.4762/69, dated 23.12.1969 in respect of land in dispute. Once late E.Achaiah, who is alleged to be the inamdar, was granted ryotwari patta in respect of the subject land i.e., Ac.0.37 guntas in Sy.No.28 of Guttalabegumpet Village in the year 1969 itself, the question of respondent Nos.3 to 5 claiming occupancy rights certificate being the successors of E. Achaiah inamdar does not arise.

8. It is the contention of the revision petitioners that the respondent No.1 failed to appreciate that the father of respondent Nos.3 to 5 executed a registered General Power of Attorney in favour of K. Ramulu, who had transferred and registered a proper conveyance deed in favour of the vendor of the petitioners, thus, the transactions are well recorded and recognizable. Even if the ORC is to be granted in favour of the

respondent Nos.3 to 5, it could only ensure to the benefit of the petitioners under Section 43 of the Transfer of Property Act.

9. It is further contention of the learned counsel for the revision petitioners that there is a delay and laches of over 17 years in passing the orders to set aside the conveyance in favour of the petitioners is wholly illegal and untenable. It is further contended that the Civil Court is ceased of the matter and there is an injunction operating in favour of the petitioners against respondent Nos.3 to 5 and therefore, ought not to have passed an order observing to set aside the registered sale deeds in favour of the petitioners.

10. It is the contention of the learned counsel for the revision petitioners that Respondent No.1 failed to appreciate that he has no jurisdiction to set aside the registered sale deeds and the same was not within the scope of enquiry. As seen from the record, the respondent No.1 in issue No.2 passed comments with regard to the validity of the sale deeds pertaining to the revision petitioners. Now the question is whether a revenue court can exercise its jurisdiction to make an opinion on the validity of registered sale deeds. In **Jamila Begum v. Shami**

Mohd.², the Supreme Court held that a registered document carries with it a presumption that it was validly executed and that it is for the party challenging the genuineness of the transaction to show that the transaction is not valid in law. Therefore, there is a statutory presumption of validity of a duly executed registered deed and the onus is on the person who denies the same and it is to be proved in the proceedings of the original suit. Thus, a revenue Court has to presume the validity and genuineness of a duly registered sale deed. In **Asset Reconstruction Co. (India) Ltd. v. S.P. Velayutham**³, wherein it was held that only Civil Court has jurisdiction to examine validity of a registered sale deed and if a party questions the very execution of a document or the right and title of a person to execute a document and present it for registration, his remedy will only be to go to the civil Court. Only the Civil Court has jurisdiction to decide the validity of a registered deed conferring title over a land to another person. The question of challenging the registered sale deed does not lie before Revenue Court and the same has to be decided by a Civil Court of competent jurisdiction. The Revenue Tribunal shall reject the question of challenging the validity of the sale deed as it has no jurisdiction

² (2019) 2 SCC 727

³ (2022) 8 SCC 210

to examine the validity of the sale deed. In view of the above discussion, this Court is of the considered view that the respondent No.1 ought not to have expressed its opinion on the validity of the registered sale deeds of the revision petitioners.

11. Learned counsel for the revision petitioners placed reliance on a decision in **Kottakapu Sai Reddy v. Joint Collector cum Appellate Authority under A.P.**⁴, wherein this Court observed as under:

“96. A Division Bench of the Andhra Pradesh High Court in B. Ramender Reddy and others vs. The District Collector, Hyderabad District and others considered the provisions of the Act including the above provision, Section 3 (which abolishes inams vesting them in the State) along with Sections 4 to 8 and held that under Section 3, the Inams are abolished and vest in the State Government w.e.f. 20.07.1955.

It then relied on the judgment of the Supreme Court in State of Maharashtra vs. Laxman Ambaji⁵ and held that though the inams are abolished, the rights of the inamdar or tenant or Kabiz-e-Kadim are not extinguished and if they are able to establish personal cultivation as on 01.11.1973, they would be entitled to occupancy rights under the Act.

It held that as per the provisions of the Act itself there are two different dates of vesting and the right to get occupancy rights is not correlated to the right of vesting of inams in the State. It declared that the relevant date for purpose of recognizing the occupancy rights under Sections 4 to 8 of the Act is 01.11.1973.

⁴ W.A.No.540 of 2007 decided on 29.09.2021

⁵ AIR 1971 SC 1859

It held that if on that date either the inamdar or the other categories mentioned in Sections 4 to 8 are in possession of the land, they would be entitled to seek grant of occupancy rights. This legal position is not disputed by counsel for any of the parties.”

12. Learned counsel for the revision petitioners relied upon a decision in **Nambi Venkataiah and another v. Venu Gopala Swamy Temple, Mahabubnagar District and others**⁶, the High Court for the erstwhile State of Andhra Pradesh observed that the action of the Revenue Divisional Officer in granting Occupancy Rights Certificate subsequent to A.P. Act 19 of 1994 coming into force, appears to be in contravention of the provision to Section 4 (1). In **Gulf Oil Corporation Limited v. Udasin Mutt**⁷, the Apex Court observed as under:

“47. The scope of inquiry under the said Act was restricted to grant of occupancy rights which was negated for multiple reasons including the fact that the land was not under agriculture on the crucial date. Since the Inams Abolition Act is a special Act in respect of abolition of inams and conferment of occupancy rights, it is an order not by a Tribunal having a plenary jurisdiction. The Tribunal under the Inams Abolition Act had limited jurisdiction to decide the questions arising under the Inams Abolition Act. Therefore, the findings recorded in such proceedings neither act as estoppel, nor res judicata for any other proceedings.

13. But in the case on hand, the respondents have not placed any evidence to substantiate that as on the relevant date they

⁶ 2011 SCC Online AP 638

⁷ 2022 SCC Online SC 1209

were in possession of the suit schedule property and they could not even establish that they were cultivating the said land as on the date of passing of the impugned order. In fact, the land is neither agricultural land nor vacant land as on the date of impugned order but the said land was converted into plots and residential place.

14. In **Abdul Qaiyum v. S. Sathaiah and others**⁸, the High Court for the erstwhile State of Andhra Pradesh held that while for abolition of inams and vesting of the same in the State that date reckoned is 20.07.1955 but determination of Occupancy rights, the date shall be reckoned as 01.11.1973. It is to be observed that Occupancy Rights Certificate can be issued only if the said property was an Inam Property and covered under the provisions of Inam Abolition Act 1955. However, the Respondent No.2 (RDO) has issued ORC and Respondent No.1 Joint Collector has confirmed the ORC without there being any record or evidence to prove that the property was an Inam property and that the father of Respondent Nos.3 to 5 Shri E. Achaiah was the Inam holder. Respondents could not provide any details or documents as to how

⁸ 1994 (2) A.P.L.J.192

their father got the Inam and who gave such property as inam. On the contrary, the available records show that Sri E. Achaiah was a pattadar and not an Inamdar. In support of the above contentions, learned counsel for the revision petitioners relied upon a decision in **S. Mallesh and others v. Government of Andhra Pradesh and others**⁹, the High Court for the erstwhile State of Andhra Pradesh held as under:

“The petitioners have neither pleaded nor established either before the primary or the appellate authority under the Inams Abolition Act or even before this court that the Inam Takhta Register of Hakimpet village, drawn up and maintained (under the provisions of Rule-3 of the 1975 Rules records the schedule lands as an inam granted for discharging Neeradi service nor have the petitioners assailed the Hakimpet village records before any appropriate authority or forum. In the absence of any evidence whatsoever marshalled by the petitioners to establish that the schedule lands are inam and that they are inamdars within the meaning of these expressions as defined in Sections 2(1)(c) and (d) of the Inams Abolition Act, the petitioners have fundamentally failed to discharge their burden, of establishing their claim to be inamdars, which is the substratum of their application for accord of registration as occupants. Inam proceedings being a great act of State [as observed by the Privy Council in Arunachallam Chetty (23 supra)] in the absence of strong and probative evidence marshaled by the petitioners establishing their claim, no credence could be accorded to a mere assertion that the schedule land is inam or that they are inamdars thereof. In any event without relevant evidence qua the

⁹ 2009 SCC Online AP 726

village records, the schedule lands cannot be held to be 'inam', in view of the definition in Section 2(1)(c)."

15. In **Syed Ameenuddin Hussain v. Joint Collector, Medak District at Sanga Reddy and others**¹⁰ the High Court for the erstwhile State of Andhra Pradesh held that though it is to be accepted that the Civil Court has no jurisdiction to decide an issue, when such an issue is to be dealt by a Special Tribunal constituted under a statute, and the jurisdiction of the Civil Court is explicitly or impliedly barred, yet every Court possess inherent powers in its very constitution, such powers which are necessary to do the right and undo the wrong in the course of administration of justice in the matters which are brought before it.

16. The learned counsel for the respondents contended that the High Court has no jurisdiction to entertain this Civil Revision Petition under Article 227 of the Constitution of India and in fact the revision petitioners ought to have filed the revision under Section 28 of the Act. On the contrary, the learned counsel for the revision petitioners relied upon a decision in **A.P. Punjabi Sabha, Hyderabad v. Joint Collector,**

¹⁰ 2003 SCC Online AP 574

Hyderabad District and others¹¹, wherein the High Court for the erstwhile State of Andhra Pradesh held as under:

“11. In G.V. Narsimha Reddy v. Syed Aktar Ali, 1988 (2) ALT 136 Justice Jagannadharao, as he then was, discussed the scheme of the Act extensively and held that a revision under Section 28 is maintainable against an order passed by the Joint Collector, in exercise of appellate power under sub-section (1) of Section 24 also. His Lordships further held that even if there exists any doubt in this regard, such revision can be entertained, under Article 227 of the Constitution of India. In Mathan Sangaiah v. Patel Eswarappa, 1997(2) A.P.L.J. 494 Justice Y.V. Narayana took a different view and held that the order passed by a Joint Collector, in exercise of appellate power, is not amenable to revision, under Section 28 of the Act. The question as to whether the High Court can exercise its power, under Article 227 of the Constitution of India, was not discussed. Therefore, notwithstanding the doubt as to the maintainability of revision, under Section 28 of the Act, this Court is of the view that it can be dealt with under Article 227 of the Constitution of India.”

17. In **S. Narasimha and others v. Joint Collector – II, Ranga Reddy District and another**¹², the High Court for the erstwhile State of Andhra Pradesh observed as under:

“11. Having regard to the precedential conflict on the question as to the availability of a revisional remedy to this Court under Section 28 of the Act, I consider it appropriate to consider the present revision as one under Article 227 of the Constitution of India, while leaving the resolution of the conflict [in the decisions in G.V. Narasimha Reddy and Patel Eswarappa cases (supra)], for an appropriate occasion, by a Division Bench of this Court.”

¹¹ (2004) 5 ALD 644

¹² 2006 SCC Online AP 57

18. In view of the above observations, this Court is of the opinion that though there is specific provision under Section 28 of the Act, the present Civil Revision Petition under Article 227 of the Constitution of India is also maintainable.

19. Coming to the rights of the revision petitioners over the subject property, the Revision Petitioners have been paying tax to the concerned authorities. They have also obtained 'No Objection Certificate' from the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad vide proceedings No.F-13235/NOC/08 dated 05.08.2008, wherein the said authority held that they have no objection and have made it clear that the property is not vested with the Government. The GHMC has regularized the plots belonging to the revision petitioners under the LRS Scheme vide proceedings i.e., LRS/472/G/CR-1/West Zone/GHMC/ 2008 dated 16.12.2008, LRS/469/G/CR-11/West Zone/GHMC/ 2008, dated 24.09.2008, LRS/470/G/CR-11/West Zone/GHMC/2008 dated 06.10.2008 and LRS/471/G/CR-11/West Zone/GHMC/2008 dated 24.09.2008. Thus, it is much clear that the Municipal

authorities have recognized the possession, enjoyment and title of the revision petitioners over the subject lands purchased by them. It appears that the revision petitioners have also obtained electricity connection to the said property in the year 2008 and have been paying necessary charges for the same. The revision petitioners were in peaceful possession and enjoyment of the said property without any interruption from anyone since 1995. The Revision Petitioners have earlier filed a suit for injunction on 05.03.2012 before the VII Additional Senior Civil Judge, Rangareddy District at L. B. Nagar and by an Order dated 07.03.2012 in I.A.No.443 of 2012 in O.S.No.415 of 2012, wherein the Court has granted an injunction in favour of the Revision Petitioners. In the said case the respondents have not contested.

20. Respondent Nos.3 to 5 have claimed in their application for issuance of ORC that they are cultivating the said land under the inam, however, as per available records, the land was converted into residential land in the year 2000. Further, the respondents themselves have sold part of the land as plots during the year 2008 and thus, the respondents are estopped

from claiming that they have been cultivating the land in dispute. A perusal of sale deed bearing document No.6460 of 1997, discloses that the said sale deed was executed on 16.05.1996 by not only Achaiah but also by five others in favour of Sri K. Ramulu GPA holder representing Smt. M. Hema Latha Devi. It is the contention of the respondents that the said GPA was never executed by Sri E.Achaiah and that it was forged and fabricated. If at all the said document was forged, fabricated and created for the purpose of snatching the property of inamdar, there was no necessity to include the names of other owners apart from E. Achaiah in the said document. A perusal of GPA bearing document No.341 of 1994, dated 10.02.1994 discloses that E. Achaiah has subscribed his thumb impression. As per the contention of the respondent Nos.3 to 5, E. Achaiah passed away 01.01.1995. If at all the respondent Nos.3 to 5 were aggrieved by said transaction, they could have initiated necessary legal action against the concerned by questioning the thumb impression on the GPA bearing document No.341 of 1994, dated 10.02.1994 alleging that the said thumb impression does not belong to E. Achaiah. But there were no such attempts on behalf of respondent Nos.3 to 5. Respondent Nos.3 to 5 relied upon death certificate of their father which has shown the date of death as 01.01.1995,

which is prior to the date of registration of the land by the power of attorney holder Sri K.Ramulu, Son of K. Kishtaiah dated 25-10-1995.

21. It is to be noted that Application for Death Certificate of E.Achaiah was filed on 13.03.2012 and order to make necessary entries in the Birth and Death register was passed on 24.03.2012. It creates any amount of suspicion in the mind of the Court as to whether the death certificate was fabricated and created to show that the original pattadar Sri Achaiah died prior to the date of registration of the land by the Power of attorney holder, as it appears to be highly irregular that a death which occurred during 1995 have been entered into the births and deaths register during the year 2012. The doubt on the date of death of E. Achaiah gets stronger when the Panchanama conducted on 22.08.2011 during the ORC proceedings stated that E. Achaiah died (14) years ago which will put his year of death to 1997 and not 1995 as recorded in the date of birth certificate issued subsequent to the ORC proceedings. A perusal of the affidavit filed by the respondent Nos.3 to 5 to the Special Grade Deputy

Collector cum Revenue Divisional Officer, West Division (Chevella) there is a correction with regard to the date of death of E. Achaiah. It is observed that based on the non availability certificate, notarized affidavit and the application submitted by the respondent Nos.3 to 5, the authorities have arrived to a conclusion that E. Achaiah expired on 01.01.1995. In fact, there is no conclusive proof to establish that E. Achaiah expired on 01.01.1995.

22. It is pertinent to note that the respondent Nos.3 to 5 were granted Occupancy Rights Certificate vide Proceedings No.B/20/2011-06 of the Tahsildar (Deputy Collector Cadre) Serilingampally Mandal, dated 16.01.2012 claiming that they are cultivating the subject property and immediately thereafter i.e., on 21.01.2012 the respondent Nos.3 to 5 have alienated part of the subject land to third parties. It is observed that within one week of grant of Occupancy Rights Certificate, the respondent Nos.3 to 5 alienated the property to third parties, which raises any amount of suspicion on the acts of respondent Nos.3 to 5 in creating multiplicity of proceedings.

23. In **Kannamma and others V. The Collector, Ranga Reddy District and others**¹³, the High Court for the erstwhile State of Andhra Pradesh observed that the relevant date for purpose of granting occupancy rights under Sections 4 to 8 is 01.11.1973 but not 20.07.1955. Thus, it is settled that the relevant date for the purpose of granting occupancy rights certificate under the Act is 01.11.1973. A perusal of pahani patrika for the year 1974-75 discloses that the land in Sy.No.28 is 'Kalva Venuka Polam' and it does not disclose the nature of land as 'inam land'. Even the pahani patrika for the years 1971-72, 1972-73, 1973-74 discloses that the land in Sy.No.28 is 'Kalva Venuka Polam' and it does not disclose the nature of land as 'inam land'. Thus, as on the relevant date i.e., 01.11.1973 the land is not "inam" even as per the above said pahani patrikas relied upon by respondent No.12. The preliminary enquiry report submitted by the Mandal Revenue Officer, the entries as per sethwar/wasool baki are not available; the entries as per khasra pahani for the year 1954-55 are in torn condition. In the enquiry report, it was submitted by the Mandal Revenue Inspector that on verification of the documents produced by the applicant i.e., pahani for the year 1973-74 in Sy.No.28 is recorded as Harijan Inam in the name of

¹³ MANU/AP/0307/1990

Achaiah. But as stated above the pahani patrika for the year 1973-74 in respect of subject land is shown as 'Kunta Venuka Polam Patta' but not 'Harijan Inam'.

24. This Court is of the considered opinion that the Respondent No.2 (RDO) and Respondent No.1 have erred in issuing ORC to the Respondent Nos.3 to 6 as there is no documentary evidence produced or adduced to confirm that Sri E.Achaiah i.e., the father of respondent Nos.3 to 6, is an Inamdar. The Respondent Nos.3 to 5 failed to establish that the schedule land is inam and that Sri Achaiah was the inamdar within the meaning of the expressions as defined in Sections 2(1)(c) and (d) of the Inams Abolition Act. The Respondent Nos.3 to 5 have basically failed to discharge their burden of establishing their claim to be the successors of inamdar on the contrary as per Pahani for the year 1973-74 shows Shri E Achaiah as pattadar. Hence, the property in question does not fall under the provisions under The Inam Abolition Act 1955.

25. The contention of the learned counsel for the revision petitioners is that no notice was issued to the petitioners before passing the order, dated 14.12.2011, which is nothing but violation of principles of natural justice. It is further contended

that the respondent No.1 failed to appreciate that respondent No.2 failed to conduct any enquiry, make local inspection and to see that the property is in the hands of third parties and without putting them on notice ought not to have passed the order.

26. It is observed that on an application by the father of Respondents Nos. 3 to 5 i.e., E.Achaiah, to Hyderabad Metropolitan Development Authority (HMDA) seeking issuance of Land Use Certificate, HMDA vide Lr.No.6505HUDA/1987 dated 06.04.1987 issued Land Use Certificate stating that the subject land is earmarked for residential use. Further, ULC authorities have issued NOC to Revision Petitioners mentioning that the land in question is an urban vacant land and not an agricultural land. Further, it has been evidenced that respondents have sold part of the land under the same survey number as plots/non agricultural land vide sale deed bearing document No.6487/2000 dated 11.08.2000. Once it is proved that the property in question is non agricultural land, then the same cannot be covered under Inam Abolition Act, 1955. It is the contention of the revision petitioners that the

Land Use Certificate, dated 06.04.1987, which was issued with respect to land in Sy.No.28 of Guttala Begumpet Village was also confirmed with the entries made in the pahani for the year 1987-88, wherein at column No.32 it was mentioned “plots khayam” i.e., the lands in Sy.No.28 of Guttala Begumpet Village were converted into plots.

27. It is further submitted that immediately after conversion of the subject lands into plots, E. Achaiah through his registered GPA holder Sri K. Ramulu sold Ac.0.32 guntas in Sy.No.28 and other neighbouring owners in Sy.Nos.27 and 29 jointed Sri E. Achaiah as vendors to sell their respective extent of lands, all admeasuring Ac.1.10 guntas to Smt. M. Hemalatha Devi vide registered sale deed bearing document No.10686 of 1995 executed on 25.10.1995. Thereafter, the said E. Achaiah and other neighbouring owners through their registered GPA holder Sri K. Ramulu, sold an extent of Ac.0.08 guntas in Sy.No.27/p, 28/p and 29/p to Smt. Hemalatha Devi vide registered sale deed bearing document Nos.6460 of 1997 on 16.05.1996. It is alleged that Sri E. Achaiah executed sale deeds bearing document Nos.622/1987 (plot No.22), 625/11987 (plot No.24) dated 16.05.1987, 765/1987 (plotNo.2), dated 20.06.1987, 1150/1987 (plot No.21), dated 09.09.1987, 1672 of

1991 (plot Nos.37 and 38), dated 04.09.1991 in favour of K. Sarojanamma, G. Rangaiah, Y. VeEnkata Lakshamma, P. Saradamma, T. Manjula respectively. Thus, the above said registered sale deeds disclose that the land has been converted into plots in the year 1987 itself and that too based on the requisition/application filed by E. Achaiah for issuance of Land Use Certificate. As rightly contended by the learned counsel for the revision petitioners, when the lands were converted into plots in the year 1987 itself, the ORC application filed by the legal heirs of E. Achaiah in 2011 stating that they were cultivating the lands in Sy.No.28 of Guttalabegmpet Village in 2011 itself speaks volumes about the fraud played in this matter.

28. It is submitted by the learned counsel for the revision petitioners that after the death of E. Achaiah, the respondent Nos.3 to 5 along with others sold plot Nos.14, 30 (p), 35, 37/A and 38 in H.No.1-65/25/11/A in Sy.No.28 totally admeasuring 420 square yards vide registered Agreement cum GPA bearing document No.6467 of 2000 dated 10.08.2000 to Sri A. Venkat Naidu, who executed a registered sale deed bearing document No.6487 of 2000 dated 11.08.2000 in favour of Smt. P. Vijaya Lakshmi. Thus, from the above transactions, it is clear that

respondent Nos.3 to 5 are very well aware about the conversion of agricultural land into non agricultural land and thereafter into plots by their father E. Achaiah. Respondent No.1 erred in holding that the land is an open land vested with the government, more particularly, when there is ryotwar patta and also plenty of registered sale deeds in respect of subject property much prior to issuance of the impugned orders and occupancy rights certificate. The Mandal Revenue Inspector without conducting the enquiry in proper perspective and without ascertaining the existing details of the alienations in respect of subject land has submitted a false report stating that the land is an open land vested with the government. The officials could have easily verified the land records of the said Sy.No.28 and it would also reflect online about the sale transactions of the petitioners and thereby could have given notices to the revision petitioners for objections, if any, on their behalf. The complete record of land conversion and mutation in the GHMC records was also purposefully ignored.

29. It is submitted by the learned counsel for the revision petitioners that after 16 years from the sale of subject plots by E. Achaiah to the vendor of revisions petitioners and after about 11 years from the above referred transaction in the year 2000

by respondent Nos.3 to 5, the respondent Nos.3 to 8 colluded together and entered into a criminal conspiracy to grab the land of the revision petitioners herein. That in furtherance of their criminal conspiracy, they hatched a plan to illegally obtain Occupancy Rights Certificate under the Inams Abolition Act, which is considered as title document and fabricated belated death certificate of E. Achaiah to show that he died on 01.01.1995 itself though he was alive by that date. It is further contended that the then officers i.e., Mr. N. Vidhya Sagar Reddy working as Mandal Revenue Inspector by that time, Mr. P. Ravinder Reddy working as Inam Tribunal Officer/RDO Chevella by that time, Mr. G. Subba Rao working as Tahsildar (Deputy Collector Cadre) by that time and his son Dr. G. Naga Karthik, joined into the criminal conspiracy to illegally misuse their official positions and in turn respondent Nos.3 to 8 had promised to transfer valuable extent of land in favour of Dr. G. Naga Karthik, towards the illegal gratification as reward for the official acts to be done by them. In furtherance of the criminal conspiracy, the respondent Nos.3 to 5 have transferred a part of a land in Sy.No.28 admeasuring about 300 square yards in favour of Dr. G. Naga Karthik under a registered sale deed bearing document No.752 of 2012, dated 21.01.2012 as a reward for illegal gratification.

30. It is further contention of the learned counsel for the revision petitioners that revision petitioner No.1 filed a private complaint on 01.06.2022 against respondent Nos.3 to 8 as well as other government officers for the offences under Sections 7, 8, 9, 12, 13 of the Prevention of Corruption Act, 1988 and Sections 409, 120-B read with Section 34 of the Indian Penal Code on the file of learned I Additional Special Judge for Trial of SPE and ACB Cases, Hyderabad vide SR No.1970 of 2022, wherein the Court has directed the DSP, ACB, Ranga Reddy for investigation and report. Accordingly, a case in Crime No.16/RCO-RRR/2022, dated 23.11.2022 was registered against the accused i.e., respondent Nos.3 to 8 herein.

31. It is pertinent to note that the ORC was granted by order dated 14.12.2011 without the death certificate of late E. Achaiah and whereas the application for the death certificate of late E. Achaiah was made on 13.03.2012 by respondent No.5. The learned counsel for the revision petitioners submitted that in a similar matter with respect to the grant of ORC on land in Sy.No.29 of Guttalabegumpet Village, Ranga Reddy District, the Joint Collector has given a finding in his order stating that all the lands of Guttala Begumpet Village are patta lands.

32. That even assuming for a moment, that the subject land is an inam land, applicants are Inamdars within the meaning of Section 2(1)(d), still the application cannot be entertained if there are buildings on the subject property in view of the provisions of Section 9 of the Act. As per the evidence on record the property contains buildings. As the property does not attract provisions of Inam Abolition Act, 1955 and ORC can not be issued by Respondent No.2 and confirmed by Respondent No.1 which is patently irregular and the officers in question appears to have colluded with Respondent Nos. 3 to 5. Even the Assistant Government Pleader has submitted that the respondent Nos.1 and 2 have played fraud in issuance of Occupancy Rights Certificate in favour of respondent Nos.3 to 5 and suitable actions are being taken against them.

33. Therefore, in view of the above discussion this Court comes to the conclusion that the subject land is not an Inam land in view of the definition in Section 2(1)(c) of the Act and as such the Respondent No.2 does not have jurisdiction to entertain the application for ORC. Further, the appellate Authority, Respondent No.1 has erred in dismissing the appeal preferred by the Revision

Petitioners vide Case No.F1/782/2012 without assigning reason. Hence, it can be concluded that the ORC issued to respondents No.3 to 5 is null and void.

34. In the result, the Civil Revision Petition is allowed and order dated 05.05.2012 passed by the RespondentNo.1, Joint Collector, Ranga Reddy District in Case No.F1/782/2012 and also the Order dated 14.12.2011 passed by the Respondent No.2, Revenue Divisional Officer, Chevella Division, Ranga Reddy District in FileNo.L/3509/2011 are hereby set aside. There shall be no order as to costs.

Pending Miscellaneous applications, if any, shall stand closed.

JUSTICE M.G.PRIYADARSINI

Date: 18.12.2023
AS