

Revenue Divisional Officer Chevella ... vs Mohd.Syed Ather on 2 January, 2025

Author: C.T. Ravikumar

Bench: C.T. Ravikumar

2025 INSC 5

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal Nos. 1919-1922 of 2016

Revenue Divisional Officer,
Chevella Division & Ors.

... Appellant(s)

Versus

Mohd. Syed Ather & Ors.

...Respondent(s)

With

Civil Appeal No.1928 of 2016
Civil Appeal No.1927 of 2016
Civil Appeal No.1926 of 2016
Civil Appeal No.1924 of 2016
Civil Appeal No.1923 of 2016
Civil Appeal No.1925 of 2016
Civil Appeal No.1930 of 2016
Civil Appeal Nos..... of 2025
(@ SLP(C) Nos. 19725-19726 of 2021)

JUDGMENT

C.T. RAVIKUMAR, J.

1. This bunch of cases belong to three categories, but all carry the same question(s) for resolution. The first batch of appeals viz. Civil Appeal Nos.1919-1922 of 2016 are directed against the common judgment and order Civil Appeal Nos. 1919-1922 of 2016 dated 02.09.2008 passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in quartet Writ Petitions viz., WP Nos. 13227/2005, 13228/2005, 13229/2005 and 13230/2005. The second batch of appeals viz., Civil Appeal Nos.1923-1930 of 2016, except Civil Appeal No.1929 of 2016 which was de-tagged as per order dated 31.07.2024 are directed against the judgments and orders in different Writ Petitions carrying the same questions arising out of the identical factual situations and allowed in terms of the common judgment and order dated 02.09.2008, which is under challenge in the first batch of Civil

Appeals. The third batch contains two Special Leave Petitions viz., Nos.19725-19726 of 2021, again carrying the same questions arising out of identical factual situations and allowed in terms of the common judgment and order dated 02.09.2008, which is under challenge in the first batch of Civil Appeals. In such circumstances, leave is granted in the said Special Leave Petitions, as well.

2. The State of Andhra Pradesh and/or its officers are the appellants in all the captioned appeals. Since we have noted that the second and third batch of appeals carry challenge against the judgments rendered relying on the common judgment dated 02.09.2008, which is Civil Appeal Nos. 1919-1922 of 2016 under challenge in the first batch of appeals, we will proceed to consider the first batch of appeals and needless to say that the fate of the other appeals would depend upon the outcome of such consideration.

3. Writ Petition Nos.13227-13230 of 2005 were filed challenging the orders passed by the Revenue Divisional Officer, Chevella Division, Ranga Reddy District in the State of Andhra Pradesh in Proceeding No.D/1229/2003 dated 30.04.2005 and further proceedings in appeals against the same, of the Deputy Collector and the Mandal Revenue Officer, Serilingampalli Mandal, Ranga Reddy District in Proceeding No.B/1139/1998 dated 15.02.2003. As per the order dated 15.02.2003, finding evidence established against the assignees/purchasers, in respect of land comprised in Survey No.37 and 38/1 situated at Khanamet village classified as Kharij Khatta Sarkari, to the effect that they had contravened the provision under sub-section (2) of Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977 (for short, 'the AP AL (POT) Act'), the request of the purchasers/assignees including the party respondents in the appeals, to drop proceedings based on the notices issued to them under the said Act and to allow them to Civil Appeal Nos. 1919-1922 of 2016 transfer subject lands, were rejected. Consequently, it was ordered thereunder to resume the lands involved thereunder under the custody of the Government immediately from the purchasers/possessors after duly evicting them according to the provisions of the AP AL (PoT) Act).

4. As per proceedings dated 30.04.2005, pursuant to order dated 28.04.2003 of the High Court of Andhra Pradesh in a batch of Writ Petitions, the appeals filed against the aforesaid order dated 15.02.2003 were considered by the Revenue Divisional Officer. Upon consideration, those appeals were dismissed finding no reason whatsoever to interfere with the order of the Deputy Collector and the Mandal Revenue Officer dated 15.02.2003.

5. In the aforesaid quartet Writ Petitions and connected matters, after assimilating the contentions, based on various Government Orders and the provisions under the relevant enactment(s), the High Court formulated the points for consideration as under: -

“Whether lands which were granted Patta under Laoni Rules, 1950 (for short, “the Laoni Rules”) can be resumed under the provisions of the Act No. 9 of 1977 treating them as assigned lands”.

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6. While challenging the aforesaid orders, evidently, the Writ Petitioners, who purchased different extents of land in Survey Nos.37 and 38/1 of Khanamet under various registered sale deeds, claimed devolution of interest and ownership rights in respect of parcel(s) of subject land purchased by them through the original assignees. They, inter alia, contended that the AP AL (PoT) Act is not applicable to the lands and the subject lands were not assigned lands covered by the provisions of AL (PoT) Act, which was referred to in the impugned judgment as 'Act No. 9 of 1977'. They also contended that there occurred several transactions in respect of such lands since 1965 and the lands were mutated in the names of subsequent purchasers. Furthermore, they contended that the Tehsildar concerned granted permission under Section 47 by validating the registered sale transactions under Section 50-B of the A.P. (Telangana Area, Tenancy and Agricultural Lands) Act, 1950 (for short, 'the Telangana Tenancy Act'). Evidently, the case of the appellant herein raised to defend the orders impugned therein that Section 47 and Section 50- B of the Telangana Tenancy Act are applicable only to patta lands and not the Government assigned lands as contemplated under the AP AL (PoT) Act and that the Civil Appeal Nos. 1919-1922 of 2016 Form-G issued to the original assignees on 08.04.1961, viz., after the commencement of the Revised Assignment Policy, free of cost without collecting market value and by virtue of Section 3 of AP AL (PoT) Act, there was prohibition of transfer of subject lands assigned which are Government lands and therefore, transfer of such lands was affected in violation of the conditions, were rejected. Naturally, the further contention that request for transfer of such lands would be impermissible in view of Section 3 of AP AL (PoT) Act was also not considered. Consequently, the High Court allowed the Writ Petition on the following lines: -

“WP Nos.13227/2005;13228/2005;13229/2005 and 13230 of 2005:

In these writ petitions, sale deeds were executed after obtaining permissions under Sec. 47 of the Telangana Tenancy Act, 1950 and sale transactions have been validated under Sec. 50-B. Since the respondents have not denied the fact of assignment of land on collection of market value and once permission is granted under Sec. 47 of the Telangana Tenancy Act and sale translation has been validated under Sec. 50-B, which is validated only to the lands which were granted on market value, the impugned orders passed by the Deputy Collector & Mandal Revenue Officer, Serilingampalli Mandal as confirmed by the Revenue Divisional Officer, Chevella Division are liable to be set-aside and they are accordingly set-aside.

Civil Appeal Nos. 1919-1922 of 2016 All these writ petitions are accordingly allowed.”
(Emphasis added)

7. Heard Mr. C.S. Vaidyanathan, learned Senior Counsel for the appellants and the learned counsel appearing for the respondents.

8. The core contention of the learned Senior Counsel for the appellant is that the foundation for the common judgment dated 02.09.2008 is the misconception that the appellants herein had not denied the fact of assignment of land on collection of market value. The learned senior counsel drew our attention to the statements and the stand taken in the counter affidavit filed in WP No.13227 of

2005 to show that patta certificates in respect of the subject lands were issued under the provisions of revised assignment policy laid down in G.O.M.S. No.1406 Revenue Department dated 25.07.1958 in Rule- 9(g) which clearly mean the assignment of land is free of market value and that land assigned though inheritable is not alienable. That apart, it is contended that the High Court had gone wrong in holding that once permission is granted under Section 47 of the Telangana Tenancy Act and sale transaction has been validated under Section 50-B, it would invariably suggest that the validation effected was only pertaining to lands which were Civil Appeal Nos. 1919-1922 of 2016 granted on market value. It is also submitted that the High Court had erred in law in not appreciating that the assignment patta certificate were issued in Rule 9 (g) on 08.04.1961 i.e., after the commencement of the revised assignment policy, on free of cost without collecting market value. It is the further contention that the High Court has also erred in not appreciating that under the original Laoni Rules, 1950 and under the revised policy published in 1958 viz., G.O.M.S. No.1406 dated 25.07.1958, alienation of assigned land was prohibited. It is submitted that in regard to questions relating assignment of land under the revised assignment policy issued under the said GO dated 25.07.1958, the decision of this Court in Government of AP and Ors. v. Gudepu Sailoo and Ors.1, assumes much relevance and that was also not appreciated by the High Court. The learned Senior Counsel has also relied on a judgment of this Court in Yadaiah and Anr. v. State of Telangana and Ors.2 to fortify the contention that the High Court had erred in appreciating such contentions, especially in considering the existence of the condition of non- alienability in Form G issued on 08.04.1961, as also existence of such a condition with respect of assigned (2000) 4 SCC 625; 2000 INSC 266 (2023) 10 SCC 755; 2023 INSC 664 Civil Appeal Nos. 1919-1922 of 2016 land under the revised policy published under the G.O.M.S. No.1406 dated 25.07.1958. The learned Senior Counsel for the appellant drew our attention to various relevant paragraphs in the decision in Yadaiah's case (supra). In paragraph 64, it was held, "once it is determined that the regulatory regime which was in vogue and held the field as on 21.10.1961 will govern the assignments, then it also stands crystalised that the 1958 Circular as well as G.O.M. S. No. 1122 being in force at that time, are clearly applicable to the subject land". Referring to paragraph 69 of the said judgment, it was submitted in categorical terms this Court held in Yadaiah's case (supra) that the provisions of the 1958 circular include a condition of non-alienability. In short, it is submitted by the learned Senior Counsel that in the light of the decision in Yadaiah's case (supra), the conclusions and the findings in the impugned common judgment dated 02.09.2008 are absolutely unsustainable.

9. The learned counsel appearing for the respondents would strenuously oppose the contentions raised on behalf of the appellant. Before going into the contentions raised on merits on behalf of the appellant, we will consider whether the contention that the basis of Civil Appeal Nos. 1919-1922 of 2016 the decision is based on misconception with respect to denial or otherwise of the contention of the Writ Petitioner that assignment of land was on collection of the market value. We may hasten to add here that we could not find any material produced by the Writ Petitioners and discussed by the High Court, to show that assignment of subject lands was on collection of market value. We have perused the counter affidavit filed on behalf of the appellants. Indisputably, the clear stand taken thereunder is to the effect that the assignment of subject land was under the aforesaid revised assignment policy under GO dated 25.07.1958. When that be so, there cannot be any doubt with respect to the position that the judgment is founded on misconception. At any rate, it would go to show the impact of such an assignment was not considered. On that ground itself the impugned

judgment invites interference. That apart, the decisions in Gudepu Sailoo's case (supra) is very much relevant to the cases on hand and as such Yadaiah's case (supra) also assumes relevance. Hence, on that ground also, the impugned judgment requires a remand for fresh consideration in the light of the said decisions.

10. In the aforesaid circumstances, the common judgment dated 02.09.2008 which is under challenge in Civil Appeal Nos. 1919-1922 of 2016 the first batch of appeals viz. Civil Appeal 1919-1922 of 2016 is set aside and the Writ Petition Nos.13227-13230 of 2005 are restored into their original numbers on the files of the High Court of Andhra Pradesh for fresh consideration taking into account the fact that the appellants have denied the claim and contentions of the Writ Petitions that assignment of lands was on collection of market value. While considering the same on such remand, the High Court shall also take into account the decision of this Court in Gudepu Sailoo's case and in Yadaiah's case (supra), more particularly the condition of non-alienability contained in the revised assignment policy under GOMS No.1406 dated 25.07.1958.

11. It is inevitable that once the aforesaid common judgment dated 02.09.2008 is set aside, the impugned judgment in the other connected Civil Appeals are also to be set aside as they were rendered relying on the said judgment dated 02.09.2008. Consequently, the impugned judgments in all the other connected captioned Civil Appeals are also set aside and the Writ Petitions involved in those appeals are also restored into their original numbers on the files of the High Court so as to enable the High Court to consider those Writ Petitions as well, along with Writ Petition Nos.13227-Civil Appeal Nos. 1919-1922 of 2016 13230 of 2005, needless to say, taking into account the observations made hereinbefore. The appeals are allowed as above. In view of the fact that the Writ Petitions are of the year 2005 or thereabouts, we request the High Court to consider all the Writ Petitions involved in these appeals, which were restored into its files, expeditiously, preferably within a period of six months from the date of receipt of the copy of this judgment.

12. To enable the High Court to do so, the Registry is directed to send a copy of this judgment to the Registrar General of the Andhra Pradesh High Court who on its receipt shall take necessary action for disposal of the Writ Petitions, expeditiously as mentioned above.

....., J.

(C.T. Ravikumar), J.

(Sanjay Karol) New Delhi;

January 02, 2025.

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