

T. Manneyya Vs. Commissioner of Settlements, Survey and Land Records and ors.

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Court : Andhra Pradesh

Decided On : Jul-04-1989

Reported in : 1992(1)ALT623

Judge : K. Ramaswamy, J.

Acts : Andhra Pradesh Estates (Abolition and Conversion into Ryotwari) Act - Sections 11 and 56(1); [Constitution of India](#) - Article 226

Appeal No. : Writ Petition No. 7715 of 1983

Appellant : T. Manneyya

Respondent : Commissioner of Settlements, Survey and Land Records and ors.

Advocate for Def. : Govt. Pleader for Respondents 1 to 3 and ;M.S.R. Subrahmanyam, Adv. for Respondents 5 to 9

Advocate for Pet/Ap. : A. Rangacharyulu, Adv.

Disposition : Petition allowed

Judgement :

ORDER

K. Ramaswamy, J.

1. Sri K.V.Varada Rao the 4th respondent, since died, his legal representatives respondents 5 to 9 have been brought on record. Sri K.V.Varada Rao purchased Ac.13.6 cts in survey No. 104 and Ac.6.26 cts in survey No. 105/8, situated in Upparapalem, hamlet of Mangalam by a registered sale deed dated January 9,1931 an inam estate, within the meaning of Section 3(2)(d) of the Estates Land Act, from the landlord Sri K.Srinivasa Chary, who, in turn, purchased from one Peda Venkata Reddy, the inamdar. Sri Srinivasa Chary purchased the land from Peda Venkata Reddy under a registered permanent patta dated October 11,1929. While so, the estate was notified under Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari Act), 26 of 1948 (for short the Act), on October 1, 1951. Thereafter, K.V.Varada Rao applied for grant of ryotwari patta on December 11, 1962. The Assistant Settlement Officer, Chittoor made an endorsement that he would conduct an enquiry in respect of Survey No. 104. The 4th respondent has renewed his application for grant of ryotwari patta in respect of survey No. 105/8, after disposal of the grant of ryotwari patta in respect of survey No. 104. Accordingly, the Assistant Settlement Officer granted ryotwari patta to the 5th respondent on December 30, 1965. On appeal, it was confirmed and also on a further writ petition this court upheld the grant of ryotwari patta in respect of survey No. 104. While so, the petitioner appears to have filed an application for grant of ryotwari patta under Section 11 (a) of the Act and the Assistant Settlement Officer, Chittoor granted to the petitioner the ryotwari patta on November 29, 1965. There does not appear to have been any notice given to the 4th respondent before the grant of ryotwari patta to the petitioner. After the disposal of the proceedings in terms of the endorsement made by the Assistant Settlement Officer dated December 11,1962 the 4th respondent renewed his application for grant of ryotwari patta by his proceedings dated March 18, 1966, to which the petitioner objected by his objections dated August 29,1966 that he was already granted ryotwari patta under Section 11 (a) of the Act. The Assistant Settlement Officer, Nellore by which date proceedings were transferred to him, has dropped the proceedings on October 31,1972. Then revision was filed against this in RP 90/73 before the Director of Settlement. The Director has allowed it and remitted the matter by his proceedings dated August 22,1975. An enquiry was conducted in

respect of the claim for the grant of ryotwari patta in respect of survey No. 105/8. The Settlement Officer by his proceedings dated January 29, 1977 granted ryotwari patta only to an extent of 2 acres and 96 cents out of survey No. 105/8 and refused grant of patta for the balance land. Aggrieved thereby, the 4th respondent filed R.P. 19/78 before the Director of Settlement. The Director refused to grant patta to the extent of 3 acres and 29 cents which was granted to the petitioner. Again the 4th respondent filed a further revision which was also dismissed on October 4, 1982. But on a further revision, the Commissioner of Land Revenue by his proceedings dated May 11, 1983 allowed the revision, set aside the grant of ryotwari patta to the petitioner dated November 29, 1965, and remitted to the Settlement Officer to conduct an enquiry into the rival claims under Section 56(1) of the Act. Assailing the legality thereof, the writ petition has been filed.

2. The contention of Sri Rangacharyulu, learned counsel for the petitioner that the grant of ryotwari patta under Section 11(a) of the Act to the petitioner having allowed to become final, it is no-longer open to the Commissioner to set aside that order in a collateral proceeding and that, therefore, the order passed by the Commissioner is vitiated by error apparent on the face pi record. Prima facie, I am in agreement with the learned counsel for the petitioner but on a deeper probe, I find it difficult to give acceptance to this contention. The reason is that as regards the rival claims are concerned, Section 56(1) covers the field in which elaborate enquiry is to be conducted regarding the claim as to who the lawful ryot is. In that context, an opportunity has got to be given to the persons who are making rival claims for the grant of ryotwari patta under Section 11 (a). It is now a well settled legal position that even an application under Section 56(1) of the Act could be treated to be an application under Section 11 (a). But the procedure to be adhered to is that the Settlement Officer should conduct an enquiry under Section 56(1) of the rival claims as to who is a lawful ryot and then decide as to who is entitled to ryotwari patta and thereafter to grant patta under Section 11 (a). This legal postition is not disputed across the bar. The question then is whether the Commissioner is justified in setting aside the order granting ryotwari patta to the petitioner on November 29, 1965. It is already seen that, by that date, the 4th respondent had already laid his claim for grant of ryotwari patta obviously under

Section 11 (a), when there is a reference in that regard by the endorsement dated December 11, 1964. Therefore, when the 4th respondent is claiming his right to a ryotwari patta and when the petitioner, is also laying a claim later for ryotwari patta there is a rival claim for the self-same land. Admittedly, no notice was given to the 4th respondent before grant of yotwari patta to the petitioner. What is the right that is affected is a matter to be gone into at the later stage. But suffice it to say that the question is whether the Settlement Officer can go into the rival claims under Section 56(1) when there is already a ryotwari patta granted in favour of one party under Section 11(a). This question was considered in Ramamurthy v. A. Nagamma, 1971 (II) An.W.R. 106, Kondaiah (sic) then was) has claborately considered this question and held thus.-

'Section 56 comes into play only when there is a dispute between the contending parties as to who the lawful ryot in respect of a particular holding is. It is the Settlement Officer that has to decide such a dispute. The dispute contemplated under A section 56 must be in respect of any holding situate in an estate notified under Section 3 of the Act. The expression 'holding' in Section 56(1) is not defined under the Act A regular appeal for an aggrieved party under Sub-section (2) to Section 56 against the decision of the Settlement Officer under Sub-section (1) thereof, is provided to the tribunal within two months from the date of such decision or within such further (sic) case as the tribunal may, in its discretion allow. The decision of tribunal under Sub-section (2) to Section 56 shall be final and binding on the parties and the same is not liable to be questioned in any Court of law However, such decision is amenable to the jurisdiction of this Court under Article 226 and 227 of the [Constitution of India](#). It is pertinent to notice that the proceedings under Section 56 are juridical in character. Though Section 11 does not provide for any appeal against the decision of the Settlement Officer granting patta, the rules framed by the State Government, the rule-making authority, provide for a revision from the decision of .the Assistant Settlement Officer to the Settlement Officer and further revisions to the Director of Settlements and the Board of Revenue. Where the decision is made by the Settlement Officer, a revision to the Director of Settlements and a further revision to the Board of Revenue lies, but there is no right of appeal against the orders of the Settlement Officer granting or refusing pattas under Section 11.

In the light of the aforesaid discussion, I shall propose to consider the contention of Mr. Poornaiah that the Settlement Officer has no jurisdiction to entertain an application under Section 56(1) for deciding the dispute who the lawful ryot in respect of a holding is, after the grant of ryotwari patta under Section 11. If really what the Counsel contends for, were the intendment and object of the Legislature to enact Section 56(1)(c), the language of that portion of that section would have been different. As pointed out earlier, Section 11 does not say that the Settlement Officer shall decide the grant of patta except recognising the right of a ryot who satisfied the requisite conditions specified therein, for the grant of ryotwari patta in respect of any ryot land properly included or ought to have been included in his holding. The Act is silent under Section 11 in this regard, as it is specifically provided under Section 56. It may be noticed that the decision of the Settlement Officer under Sections 9, 10, 12, 13, 14 read with 15 has been made subject to a right of appeal to the tribunal. No such provision in so far as the decisions under Section 11 are concerned, has been made. Section 56(1) would come into play only after an estate is notified and a proceeding has to be initiated only at the instance of a party when a dispute has been raised regarding the question as to who the lawful ryot in respect of holding for the grant of a ryotwari patta is. Section 11, proceeding may be either 'suo motu' enquiry or at the instance of any person claiming for the grant of ryotwari patta without even any contestant. The proceedings under Section 11 may, therefore, be with or without any opponent or rival claimant, whereas under Section 56 the proceedings would invariably be when a dispute arises between two or more persons claiming the grant of the patta. When a particular land was included in the holding under Section 11, the person claiming the land in question to be included in his holding is entitled to raise a dispute regarding the grant of patta and seek his remedy under Section 56(1) of the Act inviting the Settlement Officer to decide the dispute relating to that particular holding, The use of the word 'holding' in Section 56(1) has to be construed in the manner pointed out above. It is Also pertinent to notice that no time-limit within which an application under Section 56(1) can be filed, has been specified either under Section 56(1) or any rules made thereunder. The Legislature thought fit and wise not to fix any time-limit for invoking the jurisdiction of the Settlement Officer under Section 56(1) of the Act. Nor is there any

prohibition under Section 56(1) or Section 11 or anywhere under the Act or the rules made thereunder, restraining the parties from filing applications under Sections 56(l)(c) after the grant of the rough or fair pattas under Section 11 of the Act. The scheme and intendment of the Act appears to be that the persons who are really entitled to have a decision can approach the Settlement Officer under Section 56(1) even after the grant of the patta under Section 11.'

3. I respectfully agree with the law laid down by the learned Judge in this regard. Therefore, merely because a ryotwari patta was already granted to one of the rival claimants under Section 11(a) of the Act, the jurisdiction of the Settlement Officer to consider the rival claims under Section 56(1) of the Act is not ousted. Therefore, the entire matter is at large and needs to be considered by the Settlement Officer, viz., who the lawful ryot is and whether the order dated November 29, 1965 granting ryotwari patta under Section 11(a) of the Act to the petitioner is valid and whether it binds the 4th respondent and now his legal representatives, by conducting an enquiry of the rival claims under Section 56(1). Without, going into the question straightaway as to who the lawful ryot is setting aside the grant of ryotwari patta under Section 11(a) of the Act granted to the petitioner on November 29, 1965 is not a correct procedure adopted by the Commissioner. Accordingly, to that extent, the order is quashed. But the remitting of the matter to the Settlement Officer to conduct an enquiry into the rival claims is upheld. Accordingly, the Settlement Officer is directed to conduct an enquiry as to who is the lawful ryot between K.V.Varada Rao and his legal representatives, and the petitioner, and then decide as to who is entitled to the ryotwari patta. In case it is found that Varada Rao is entitled to ryotwari patta, then the Settlement Officer is directed to consider the validity of the grant of ryotwari patta to the petitioner and then pass appropriate orders relating to grant of ryotwari patta, according to law.

4. The writ petition is accordingly allowed in part but in the circumstances without costs. Advocate's fee Rs. 350/-.