

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT: HYDERABAD

CORAM:

*** THE HON'BLE SRI JUSTICE K. LAKSHMAN**
+ WRIT PETITION Nos.39609, 45906 & 46008 OF 2022
AND
WRIT PETITION No.10150 OF 2023

% Delivered on: 25-04-2023

Between in W.P. No.39609 of 2022:

Y. Jaihind Reddy S/o late Sri Raji Reddy .. Petitioner

Vs.

\$ The State of Telangana, rep.by its Principal
Secretary, Revenue Department, Hyd. & others .. Respondents

! For Petitioner in all W.Ps. : Mr. Ashok Reddy Kanathala &
Mr. Prabhakar Sripada,
Ld. Senior Counsel.

^ For Respondents : Mr.Harender Pershad,
Ld. Special Govt. Pleader rep.
Ld. Advocate General.

< Gist :

> Head Note :

? Cases Referred :

1. Order in W.P. No.441 of 2023, decided on 27.02.2023

HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION Nos.39609, 45906 & 46008 OF 2022

AND

WRIT PETITION No.10150 OF 2023

COMMON ORDER:

Heard Mr. Ashok Reddy Kanathala, learned counsel for the petitioner in W.P.Nos.39609, 45906 and 46008 of 2022, Mr. Prabhakar Sripada, learned Senior Counsel representing Mr. Setty Ravi Teja, learned counsel for the petitioner in W.P. No.10150 of 2023 and Mr. Harender Pershad, Special Government Pleader representing learned Advocate General appearing on behalf of the respondents.

2. All the aforesaid writ petitions are filed seeking to declare the action of the Tahsildar in not providing certified copies of registered sale deeds/succession proceedings, partition deeds executed through Dharani Portal in respect of agricultural lands and also not providing certified copies of Pahanies and Chesala etc., as illegal and for a consequential direction to the Revenue Authorities to provide the aforesaid documents.

3. The *lis* involved in all the aforesaid writ petitions is same and, therefore, all the said writ petitions are heard together and are being disposed of by way of this common order.

4. Before discussing the *lis* involved in the present writ petitions, it is relevant to note that the Telangana Rights in Land and Pattadar Pass Books Act, 2020 (hereinafter referred to as 'ROR Act, 2020') was enacted replacing the Telangana Rights in Land and Pattadar Pass Books Act, 1971 (hereinafter referred to as 'ROR Act, 1971') with the following objects and purpose:

“At present the land owners were insisted for production of Pattadar Pass Books and Title deeds for transactions related to land and also to secure loans by any Credit agency under section 6-B and section 6-C of Telangana Rights in Land and Pattadar Pass Books Act, 1971. Several instances came to the notice of the Government that the farmers are experiencing difficulties getting mutation of their lands after transfer and obtaining agricultural loans from the lending agency by producing the Pass Book and Title deed physically. Since all the land related data is Computerized and maintained in Dharani Portal, Government have decided to bring up new "Telangana Rights in Land and Pattadar Pass Books Act, 2020 in the place of existing one with the following objectives:

- (i) maintenance of the Record of Rights in electronic form in the Telangana Land Records Management System (TLRMS)

and to validate the electronically maintained revenue records in centralized storage devices and being executed through portals such as TLRMS and MeeSeva etc.

(ii) combining Title Deed and Pass Book as Title Deed cum Pass Book, to enable the land holders/owners to obtain electronic Pattadar Pass Book cum Title deed.

(iii) reducing the need to produce the Pass Books by the user agency.

(iv) to ensure the bankers/credit agency to grant loans based on the revenue records maintained electronically in centralized storage device through Data Base such as Telangana Land Records Management System (TLRMS) etc., without insisting physical production of any type of Revenue records from the farmers.

(v) automatic acquisition of rights immediately after transfer of property.

(vi) this will enable the goals of ease of doing business and greater transparency and accountability in the department.

(vii) to protect the lands belonging to the State Government or Central Government.

(viii) to increase transparency in Revenue administration

(ix) to evolve good practices to end corruption in revenue administration.

(x) to provide accountable and responsive revenue administration as part of smart and good governance.

(xi) to ensure hassle free revenue administration in the 'lay' public interest.”

5. It is clear that the ROR Act, 2020 was enacted with the salutary object of digitizing the maintenance of revenue records and to obviate the difficulties faced by the citizens in getting lands mutated in their names. To achieve the said object, an online platform – cum – repository of land related information by the name Dharani Portal was created. The said Dharani Portal is supposed to be the one-stop center to record information of title holders of lands in Telangana through online means. It provides online services like mutation/succession, land valuation certificate, land conversion, agriculture income certificate, etc. to the citizens.

6. The idea behind introducing Dharani Portal is to reduce human intervention and weed out red-tapism in maintenance of revenue records. The object also includes to check corruption, delays, irregularities in land registration. However, this case is a classic example of how citizens still face difficulties while accessing the Dharani Portal.

7. As stated above, the present writ petitions are filed being aggrieved by the action of the concerned Tahsildars in not providing certified copies of documents uploaded on Dharani Portal.

8. It is relevant to note that Section - 2 (1) of the ROR Act, 2020 deals with the definition of '*certified copy*'. Since the same is relevant for the purpose of present case, it is extracted as under:

“*certified copy*” or “*certified extract*” means a copy or extract taken from Dharani, as certified in the manner prescribed by Section 76 of the Indian Evidence Act, 1872 (Central Act 1 of 1872).”

9. The aforesaid definition clearly indicates that the ROR Act, 2020 contemplates issuance of certified copies of documents sought to be obtained from Dharani. Therefore, when the law clearly defines a certified copy as a copy to be obtained from Dharani, the respondents cannot refuse issuance of such certified copies.

10. However, during the course of hearing the concerned Tahsildar had produced written instructions dated 01.11.2022 stating that only scanned copies of sale deeds registered under ROR Act, 2020 are uploaded on the Dharani Portal and the original sale deeds are handed over to the concerned buyers. No spare copies of the said sale deeds are stored in the office. Further, ROR Act, 2020 does not provide any guidelines regarding issuance of certified copies of documents registered on Dharani Portal.

11. Noting that the written instructions dated 01.11.2022 are contrary to the definition of *certified copy* and the object of the ROR Act, 2020, this Court directed the Principal Secretary, Revenue Department to file his counter-affidavit in the present writ petitions.

12. On the next date of hearing, the Learned Assistant Government Pleader for Revenue sought time from this Court and submitted that the Principal Secretary, Revenue Department took up the issue with the Chief Secretary and the Chief Commissioner of Land Administration, Telangana State, Hyderabad (hereinafter referred to as 'CCLA') and the same was pending. Thereafter, the District Collector, Ranga Reddy District, filed his counter-affidavit in which he failed to provide any details regarding the procedure/provision to make applications by the citizens to obtain certified copies of any document from the Dharani Portal. Therefore, *vide* order dated 24.04.2023, this Court directed the CCLA to appear in person on 25.04.2023 before this Court to address the said issue and other issues which the citizens face while accessing the Dharani Portal.

13. In compliance of the order dated 24.04.2023, today, the CCLA is present in person before this Court. He informed the Court that an online portal by name 'MeeSeva Portal in Dharani' is created and through the said portal the petitioners can submit online applications seeking certified copies of documents. Once submitted, such applications will be considered and certified copies will be issued.

14. In view of the above submission by the CCLA, all these writ petitions are disposed of granting liberty to the petitioners to submit online applications through 'MeeSeva Portal in Dharani'. On filing of such applications, the respondents shall consider the same and furnish certified copies to the petitioners by following procedure laid down under law. If the respondents are not inclined to accept the request made by the petitioners, they shall assign specific reasons and pass a reasoned order and communicate a copy of such order to the petitioners. They shall complete the said exercise within eight (08) weeks from the date of receipt of online applications from the petitioners. In the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petitions shall stand closed.

15. As stated above, citizens continue to face difficulties at multiple levels while accessing the Dharani Portal. Further, this Court has noticed and identified various issues on which the ROR Act, 2020 is silent. The issues pertaining to the ROR Act, 2020 are briefly discussed below.

16. Section 7 of the ROR Act, 2020 permits change in the record of rights when such rights are acquired through a court decree. However, there is no clarity regarding the nature of the decree i.e., whether 'court decree' includes a decree passed in a suit for recovery of money or a decree obtained in suit for permanent injunction or any other decree. Further, Section 7 of the ROR Act, 2020 does not prescribe any period of limitation to effect changes in the record of rights. This has resulted in litigants seeking change in record of rights after a considerable lapse of time by relying on court decrees passed as long back as 1986.

17. Pursuant to the ROR Act, 2020, the CCLA had issued Circular No.1/2021, dated 15-01-2021 which provides that citizens

can make online applications in relation to any land related issues including seeking rectification/correction of data, issuance of e-pattadar Pass book and mutation of their names. The said Circular also provides that citizens can make F-Line applications seeking survey and sub-division survey. The authorities are bound to consider online applications and F-Line applications within one (1) week and forty-five (45) days, respectively from the date of its receipt. However, this Court has noted that in most of the cases the District Collector/Revenue Authorities are not acting upon such online/F-Line applications. Further, in many cases District Collectors/Revenue Authorities are rejecting the said online/F-line applications using one-word i.e., 'rejected'. No reasons are being assigned. Any order without reasons is nullity. Therefore, these actions of the authorities are causing severe hardship to the citizens who are constrained to approach this Court, thereby increasing the pendency of cases.

18. This Court has noted another instance where an illiterate woman farmer from a rural area in Adilabad had approached this Court alleging that her online application for data correction was rejected on the ground that her application was not submitted in a

proper module. According to this Court, the State cannot expect an illiterate woman from a rural area to submit an application in a particular module. CCLA has to address the said issue, otherwise people will approach brokers and agents in which event the very object of the ROR Act, 2020 and Dharani Portal will be defeated.

19. It is also relevant to note that there is no provision in the ROR Act, 2020 to file an appeal or review against an order passed by the Revenue Authorities under the provisions of the ROR Act, 1971. Therefore, considering the said aspect and also considering the provisions of the Telangana General Clauses Act, 1891, this Court in **Reena Mathur v. The State of Telangana, represented by its Principal Secretary, Revenue Department, Hyderabad**¹ held that appeals filed by the litigants under Section - 5B and 5 (5) of the ROR Act, 1971 and revisions filed under Section - 9 of the ROR Act, 1971 challenging the orders passed by Revenue Authorities prior to the enactment of ROR Act, 2020, are maintainable.

20. Likewise, without verifying the extent and details of suit schedule properties, the authorities are recording the entire survey

¹. Order in W.P. No.441 of 2023, decided on 27.02.2023

number in Prohibitory List on the grounds of pending court cases, which is illegal and the same is causing hardship to citizens resulting in infraction of their right to property. According to this Court, only such properties which fall within the schedule of a pending suit can be listed in the Prohibitory List on Dharani Portal.

21. It is also brought to the notice of this Court that Dharani Portal is not accepting the Registered Agreement of Sale-cum-General Power of Attorney and the Authorities are insisting the principals to attend in person and furnish thumb impressions, which is contrary to the provisions of the Indian Contract Act, 1872. Once principal executes a registered document on receipt of total sale consideration, insisting his/her thumb impression is not permissible.

22. It is relevant to note that Section 11 of the ROR, Act 2020 provides that a pattadar pass book-cum-title deed issued under the Act shall be deemed to be a title deed and it shall have the same evidentiary value as a document registered under the Registration Act, 1908. However, the numerous issues involving Dharani Portal and lack of clarity regarding certain aspects in the ROR Act, 2020, raises

doubts regarding the evidentiary value of such pattadar pass book-cum-title deed.

23. The issues identified by the Court including the issues discussed above are summarized as follows:

- i) Non-consideration of Online Applications seeking correction of data, issuance of *e*-pattadar pass book *etc.*, within the stipulated time stipulated;
- ii) Non-consideration of F-Line Applications seeking survey and sub-division survey within the stipulated time;
- iii) Non-consideration of Sale Certificates issued by the Bankers/Financial Institutions to the Auction Purchasers;
- iv) Non-consideration of General/Special Power of Attorneys uploaded on Dharani Portal so as to proceed with sale transaction in time;
- v) Rejection of several Online/F-Line Applications with one word 'rejected' without assigning any reasons;
- vi) Rejection of Online Applications on the ground of non-submission of such applications in proper modules;
- vii) Lack of clarity in respect of the phrase 'court decree' in Section 7 of the ROR Act, 2020. Clarification needed if court decrees include only decrees resulting in change of title or even includes decrees passed in other suits;

- viii) There is no limitation prescribed under Section 7 of the ROR Act, 2020 within which changes can be effected in record of rights based on a court decree;
- ix) If an applicant submits an online application in a wrong Module, the same should be displayed on the Monitor with a request to apply in a particular module by showing the details of the said module;
- x) There is no provision to file appeals or revisions, like Section - 5(B), 5 (5) or 9 of the ROR Act, 1971 in respect of orders passed by Revenue Authorities before enactment of the ROR Act, 2020. Therefore, litigants are praying to consider Telangana General Clauses Act, 1891 and to permit them to file appeals, revisions etc., challenging the orders passed by the Revenue Authorities prior to enactment of ROR Act, 2020;
- xi) Mentioning of entire survey number in the Court Cases/Stay/Injunction Order etc., in the Prohibited Property list. Only the suit schedule property shall form part of such list;
- xii) Appeals & revisions pending under the ROR Act, 1971 shall be transferred to the Special Tribunal constituted under Section 16(1) of the ROR Act, 2020. However, this Court has noted that several such pending appeals and revisions are yet to be transferred to the Special Tribunal;

- xiii) Inclusion of entire survey number as “NALA” in Dharani Portal though only a part of the land is converted from agricultural to non-agricultural land;
- xiv) In the event of inclusion of a particular survey number inadvertently as part of Prohibited List or Government Land, there is no option for deletion;
- xv) There is no option to change the extent of land in RSR;
- xvi) There is no option to divide the property purchased jointly or in case of joint pattadars;
- xvii) It is difficult for the authorities to verify the title of a person seeking to get land mutated in his name. An option shall be available for the citizens to upload the link documents of the property on the Dharani Portal. This will lend more credibility to the evidentiary value of the title recognised under the ROR Act, 2020;
- xviii) There is no option to obtain patta from the legal heirs of the deceased vendor;
- xix) There is no option to include missing survey numbers and wrong entries;
- xx) There is no option to delete the land acquired by the Government from the owner of the land;
- xxi) The details of lands assigned by the Government are not reflected on the Dharani Portal;

24. These are the issues which arise before this Court on a regular basis. However, there are many such issues which are faced by the citizens. To truly achieve the object of the ROR Act, 2020 and to reduce the avoidable pendency of cases, the Government shall consider and resolve the aforesaid issues and take steps to identify other issues which the citizens face on a regular basis.

25. Accordingly this Court directs the CCLA to seek inputs/opinion from the Revenue Officials working at Village Level, Mandal Level and Division Level through the concerned District Collectors regarding the common difficulties that arise in relation to the Dharani Portal. Thereafter, the CCLA shall consider the said inputs/opinions and come up with possible solutions to implement the object of the ROR Act, 2020 including a hassle free access to the Dharani Portal.

26. In view of the aforesaid discussion, both the Chief Secretary, Government of Telangana, Hyderabad and the Chief Commissioner of Land Administration, Telangana State, Hyderabad, shall address the aforesaid issues and take necessary steps in

accordance with law within a period of four (04) weeks from the date of receipt of copy of this order and file compliance report.

For compliance report, list on 15.06.2023.

The Registrar (Judicial-I), shall circulate copy of this order to the Chief Secretary, Government of Telangana, Hyderabad and the Chief Commissioner of Land Administration, Telangana State, Hyderabad, to take necessary steps.

K. LAKSHMAN, J

25th April, 2023

Note:

1. The Registrar (Judicial-I) is directed to take steps for translation of this order into Telugu Language and upload the same on the official Website of the High Court for the State of Telangana;
2. L.R. Copy be marked.
(B/O.) Mgr