

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TENTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

PRESENT
THE HONOURABLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

I.A.Nos.3,5 & 6 OF 2022
IN/AND
WRIT PETITION NO: 7539 OF 2017

I.A.Nos.3 OF 2022:

Between:

Chekuri Subba Raju, S/o late Venkata Raju, aged 42 years, resident of Flat No.C-402, My Home Abhra, Panmakthta, Rai Durga, Opp Inorbit Mall, Gachibowli, KV Ranga Reddy dt.,

...PETITIONER/PROPOSED RESPONDENT No.7

AND

1. The State of Telangana, rep.by its Principal Secretary, (Revenue Department), Secretariat, Hyderabad.
2. The Joint Collector-I, Rangareddy, Rangareddy District.,
3. The Additional Revenue Divisional Officer, Hyderabad East, Hyderabad.
4. The Mandal Revenue Officer, Maheswaram Mandal, R.R.District
5. Sri.Kalwakolu Sailu, S/o. Chandraiah R/o. Gangaram Village, Maheswara Mandal, Rangareddy District.
6. Sri Kalwakolu Pentaiah, S/o. Chandraiah R/o.Gangaram Village, Maheswaram Mandal, Rangareddy District.

...RESPONDENTS IN WP

7. Rahat Unnisa Begum, W/o. Late Mohammed Riyasat Ali Khan, 1521, Roseway Drive, Mississauga, ON L 5m Canada
8. Sri Mohd. Qadar Ali Khan, S/o. Late Mohd. Riyasat Ali Khan, U.S.A., Atlanta GA
9. Mr. Mohd. Arif Khan, S/o. Late Mohd. Riyasat Ali Khan, 521, Roseway Drive, Mississauga, ON L 5m Canada.
10. Mrs. Maimuna Rahman, W/o. Mr. Riyazur Rahman, 1397 Willow, ale Gardens, Mississauga, ON L 5V WI, Canada.
11. Mrs. Habeeba Khatoun, W/o.Ehteshan Moinuddin, 4654, Apple Blossom Circle, Mississauga, ONL5V, 3C3, Canada.

12. Mrs. Jahandar Unnisa Mahainmed, W/o.Mr. Abdul Wajid Mohammed. 5517, Atherleigh Avenue, Mississata, Autaria L5V2K7, Canada.
13. Smt. Abeda Baig, D/o. Late Mohd. Riyasat Ali Khan, 44-Shrewsbury Road, New South Gate, London N11 - 2LH, UK.,

Respondents 7 to 13 (Writ Petitioners 1 to 7) represented by their GPA Holder Rafat Iqbal, S/o. Late Shaik Omar, aged 47 years, R/o 320/7/165/ Qazipura, Hyderabad. Vide GPA Nos.320/IV/06, 403/IV/06, 1240/IV/94.

...PETITIONERS in WP

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased implead the proposed respondent as party respondent No.7 in WP No.7539/2017 and in IA No.1/2017 in WP No.7539/2017.

Counsel for the Petitioner: SRI A. SRINIVASA SARMA

Counsel for the Respondent No.1 to 4: GP FOR REVENUE

Counsel for the Respondent No.5 & 6: - - - -

Counsel for the Respondent No.7 to 13: SRI M. RAJENDER REDDY

I.A.Nos.5 OF 2022:

Between:

Chekuri Properties Pvt. Ltd., Hyderabad, represented by Its Director, Chekuri Renuka, W/o Chekuri Subba Raju, Aged 42 years, resident of Flat No.C-402, My Home Abhra, Panmakthta, Rai Durga, Opp Inorbit Mall, Gachibowli, KV Ranga Reddy dt.,

...PETITIONER/PROPOSED RESPONDENT No.9

AND

1. The State of Telangana, rep.by its Principal Secretary, (Revenue Department), Secretariat, Hyderabad.
2. The Joint Collector-I, Rangareddy, Rangareddy District.,
3. The Additional Revenue Divisional Officer, Hyderabad East, Hyderabad.
4. The Mandal Revenue Officer, Maheswaram Mandal, R.R.District
5. Sri.Kalwakolu Sailu, S/o. Chandraiah R/o. Gangaram Village, Maheswara Mandal, Rangareddy District.
6. Sri Kalwakolu Pentaiah, S/o. Chandraiah R/o.Gangaram Village, Maheswaram Mandal, Rangareddy District.

...RESPONDENTS IN WP

7. Rahat Unnisa Begum, W/o. Late Mohammed Riyasat Ali Khan, 1521, Roseway Drive, Mississauga, ON L 5m Canada
8. Sri Mohd. Qadar Ali Khan, S/o. Late Mohd. Riyasat Ali Khan, U.S.A., Atlanta GA

9. Mr. Mohd. Arif Khan, S/o. Late Mohd. Riyasat Ali Khan, 521, Roseway Drive, Mississauga, ON L 5m Canada.
10. Mrs. Maimuna Rahman, W/o. Mr. Riyazur Rahman, 1397 Willow, ale Gardens, Mississauga, ON L 5V WI, Canada.
11. Mrs. Habeeba Khatoon, W/o. Ehteshan Moinuddin, 4654, Apple Blossom Circle, Mississauga, ON L5V, 3C3, Canada.
12. Mrs. Jahandar Unnisa Mahainmed, W/o. Mr. Abdul Wajid Mohammed, 5517, Atherleigh Avenue, Mississata, Autaria L5V2K7, Canada.
13. Smt. Abeda Baig, D/o. Late Mohd. Riyasat Ali Khan, 44-Shrewsbury Road, New South Gate, London N11 - 2LH, UK.,

Respondents 7 to 13 (Writ Petitioners 1 to 7) represented by their GPA Holder Rafat Iqbal, S/o. Late Shaik Omar, aged 47 years, R/o 320/7/165/ Qazipura, Hyderabad. Vide GPA Nos. 320/IV/06, 403/IV/06, 1240/IV/94.

...PETITIONERS in WP

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to implead the proposed respondent as party Respondent No 9 in WP No. 7539/2017 and in IA No. 1/2017 in WP No. 7539/2017.

Counsel for the Petitioner: SRI A. SRINIVASA SARMA

Counsel for the Respondent No.1 to 4: GP FOR REVENUE

Counsel for the Respondent No.5 & 6: - - - -

Counsel for the Respondent No.7 to 13: SRI M. RAJENDER REDDY

I.A.Nos.6 OF 2022:

Between:

S. Praveen Tez, S/o sri S. Ramachandrarao, aged 34 years, Doctor, H.No.2-1-112, Plot No.31 West, Road No.5, B.K. Reddy Colony, Nr Venkata Ramana Colony, Nagole Uppal Mandal, Medchal Malkajgiri dt.,

...PETITIONER/PROPOSED RESPONDENT No.8

AND

1. The State of Telangana, rep.by its Principal Secretary, (Revenue Department), Secretariat, Hyderabad.
2. The Joint Collector-I, Rangareddy, Rangareddy District.,
3. The Additional Revenue Divisional Officer, Hyderabad East, Hyderabad.
4. The Mandal Revenue Officer, Maheswaram Mandal, R.R.District
5. Sri.Kalwakolu Sailu, S/o. Chandraiah R/o. Gangaram Village, Maheswara Mandal, Rangareddy District.
6. Sri Kalwakolu Pentaiah, S/o. Chandraiah R/o.Gangaram Village, Maheswaram Mandal, Rangareddy District.

...RESPONDENTS IN WP

7. Rahat Unnisa Begum, W/o. Late Mohammed Riyasat Ali Khan, 1521, Roseway Drive, Mississauga, ON L 5m Canada
8. Sri Mohd. Qadar Ali Khan, S/o. Late Mohd. Riyasat Ali Khan, U.S.A., Atlanta GA
9. Mr. Mohd. Arif Khan, S/o. Late Mohd. Riyasat Ali Khan, 521, Roseway Drive, Mississauga, ON L 5m Canada.
10. Mrs. Maimuna Rahman, W/o. Mr. Riyazur Rahman, 1397 Willow, ale Gardens, Mississauga, ON L 5V WI, Canada.
11. Mrs. Habeeba Khatoon, W/o. Ehteshan Moinuddin, 4654, Apple Blossom Circle, Mississauga, ON L 5V, 3C3, Canada.
12. Mrs. Jahandar Unnisa Mahainmed, W/o. Mr. Abdul Wajid Mohammed, 5517, Atherleigh Avenue, Mississata, Autaria L5V2K7, Canada.
13. Smt. Abeda Baig, D/o. Late Mohd. Riyasat Ali Khan, 44-Shrewsbury Road, New South Gate, London N11 - 2LH, UK.,

Respondents 7 to 13 (Writ Petitioners 1 to 7) represented by their GPA Holder Rafat Iqbal, S/o. Late Shaik Omar, aged 47 years, R/o 320/7/165/ Qazipura, Hyderabad. Vide GPA Nos. 320/IV/06, 403/IV/06, 1240/IV/94.

...PETITIONERS in WP

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to implead the proposed respondent as party Respondent No.10 in WP No.7539/2017 and in IA No.1/2017 in WP No.7539/2017.

Counsel for the Petitioner: SRI A. SRINIVASA SARMA

Counsel for the Respondent No.1 to 4: GP FOR REVENUE

Counsel for the Respondent No.5 & 6: - - - -

Counsel for the Respondent No.7 to 13: SRI M. RAJENDER REDDY

WRIT PETITION NO: 7539 OF 2017

Between:

1. Rahat Unnisa Begum, W/o. Late Mohammed Riyasat Ali Khan, 1521, Roseway Drive, Mississauga, ON L 5m Canada
2. Sri Mohd. Qadar Ali Khan, S/o. Late Mohd. Riyasat Ali Khan, U.S.A., Atlanta GA
3. Mr. Mohd. Arif Khan, S/o. Late Mohd. Riyasat Ali Khan, 521, Roseway Drive, Mississauga, ON L 5m Canada.
4. Mrs. Maimuna Rahman, W/o. Mr. Riyazur Rahman, 1397 Willow, ale Gardens, Mississauga, ON L 5V WI, Canada.
5. Mrs. Habeeba Khatoon, W/o. Ehteshan Moinuddin, 4654, Apple Blossom Circle, Mississauga, ON L 5V, 3C3, Canada.
6. Mrs. Jahandar Unnisa Mahainmed, W/o. Mr. Abdul Wajid Mohammed, 5517, Atherleigh Avenue, Mississata, Autaria L5V2K7, Canada.

7. Smt. Abeda Baig, D/o. Late Mohd. Riyasat Ali Khan, 44-Shrewsbury Road, New South Gate, London N1 2LH, U.K.

Petitioners 1 to 7 represented by their GPA Holder Rafat Iqbal, S/o. Late Shaik Omar, aged 47 years, R/o. 320/7/165, Qazipura, Hyderabad, Vide GPA Nos.320/IV/06, 403/IV/06, 1240/IV/94.

...PETITIONERS

AND

1. The State of Telangana, rep.by its Principal Secretary, (Revenue Department), Secretariat, Hyderabad.
2. The Joint Collector-I, Rangareddy, Rangareddy District.
3. The Additional Revenue Divisional Officer, Hyderabad East, Hyderabad.
4. The Mandal Revenue Officer, Maheswaram Mandal, R.R.District
5. Sri Kalwakolu Sailu, S/o. Chandraiah R/o. Gangaram Village, Maheswara Mandal, Rangareddy District.
6. Sri Kalwakolu Pentaiah, S/o. Chandraiah R/o. Gangaram Village, Maheswaram Mandal, Rangareddy District. **(Died per LRs RRs-8 to RRs-10)**

...RESPONDENTS

7. K.R.P. Raju, S/o. Late K.P.V. Raju, Aged about 63 years, Occ: Business R/o Plot No.2-1/40, NCL North Avenue, Kompally, Secunderabad.

(Respondent No.7 is impleaded as per C.O. dt. 13/12/2022 in I.A.No.4/2022)

8. Kavali Arunamma, W/o. Kavali Kistaiah, Aged 47 years, Occu: Housewife R/o. Bahadurpura, Shamshabad Ranga Reddy District.
9. Bollepaka Anitha, W/o. Bollepaka Ravi, Aged 43 years, Occu:- Housewife R/o.No.2-184, Ghattupalli, Maheshwaram Mandal, Ranga Reddy District.
10. Kalvakolu Suresh, S/o. Late Pentaiah, Aged 30 years, Occ: Agriculture R/o. 3-4/2, Gangaram, Maheshwaram Mandal Ranga Reddy District.

(Respondent Nos.8 to 10 are brought on record as LRs of the deceased Respondent No.6 as per C.O. dt. 11.04.2023 in I.A. No.2 of 2022.)

11. Chekuri Subba Raju, S/o. Late Venkata Raju, Aged 42 years, Resident of Flat No.C-402, My Home Abhra, Panmakthta, Rai Durga, Opp: Inorbit Mall, Gachibowli, KV Ranga Reddy District.
12. Chekuri Properties Pvt Ltd., Hyderabad, represented by its Director, Chekuri Renuka, W/o. Chekuri Subba Raju, Aged 42 years, resident of Flat No.C-402, My Home Abhra, Panmakthta, Rai Durga, Opp. Inorbit Mall, Gachibowli, KV Ranga Reddy District.
13. S. Praveen Tez, S/o. Sri S. Ramachandrarao, Aged 34 years, Doctor, H.No.2-1-112, Plot No.31 West, Road No.5, B.K. Reddy Colony, Nr Venkata Ramana Colony, Nagole Uppal Mandal, Medchal-Malkagiri District.

(Respondent No.11 to 13 are impleaded as per C.O.dt. 10.07.2023 in I.A.Nos.3,5 & 6 respectively)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Certiorari call for the records pertaining to order in Case No.D5/390/2015

dated. 15-09-2016 passed by the 2nd Respondent as illegal and arbitrary and quash the same and consequently direct the respondents 2 to 4 to deletion of the names of Respondents 5 and 6 in the Title Deeds and Pass Books issued in respect of Survey No.89 to an extent of Ac.11.14 Guntas of Gangaram Village, Maheswaram Mandal, R.R.District.

IA NO: 1 OF 2017(WPMP. NO: 9275 OF 2017)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents 2 to 4 to deletion of the names of Respondents 5 and 6 in the Title Deeds and Pass Books issued in respect of Survey No.89 to an extent of Ac.11.14 Guntas of Gangaram Village, Maheswaram Mandal, R.R.District, pending disposal of the above writ petition.

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to receive the above said documents i.e, 1. Death Certificate of Late Riyasath Ali Khan, 2. Memo issued by the 4th respondent in Lr. No k/22/2008 which clearly mentioned that there is no PT Over Sy. No 89 along with pahani for the year 2006 - 2007 as Additional Material Papers.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to receive the documents i.e., i.e., Judgement and Decree passed in O.S. No. 61 of 2007, Dated: 07-04-2007 by the Hon'ble Junior Civil Judge, Ibrahimpatnam, Court, at Ranga Reddy District, in the material paper as an additional documents by condoning the delay if any.

IA NO: 3 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased implead the proposed respondent as party respondent No.7 in WP No.7539/2017 and in IA No.1/2017 in WP No.7539/2017.

IA NO: 5 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to implead the proposed respondent as party Respondent No 9 in WP No.7539/2017 and in IA No.1/2017 in WP No.7539/2017.

IA NO: 6 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to implead the proposed respondent as party Respondent No.10 in WP No.7539/2017 and in IA No.1/2017 in WP No.7539/2017.

Counsel for the Petitioners: SRI M. RAJENDER REDDY

Counsel for the Respondent No.1 to 4: GP FOR REVENUE

Counsel for the Respondent No.5 & 6: - - - -

Counsel for the Respondent No.7: SRI D. JAGAN MOHAN REDDY

Counsel for the Respondent No.8 to 10: SRI A. SRINIVASA SARMA

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

I.A.Nos.3, 5 AND 6 OF 2022

IN/AND

WRIT PETITION No.7539 OF 2017

ORDER:

This Writ Petition is filed seeking a Writ of Certiorari to call for the records pertaining to the order in case No.D5/390/2015, dated 15.09.2016, passed by respondent No.2 and to quash the same and also sought for consequential direction to respondent Nos.2 to 4 to delete the names of respondent Nos.5 and 6 in the Title Deeds and Pass Books issued in respect of Sy.No.89 to an extent of Acs.11.14 gts., of Gangaram Village, Maheshwaram Mandal, Ranga Reddy District.

2. Though the legal heirs of respondent No.6 have filed an application to implead themselves as respondents and they were impleaded as respondent Nos.8 to 10 and they did not chose to contest the matter and no arguments were advanced on their behalf. Similarly some third parties have filed implead applications in I.A.Nos.3, 5 and 6 of 2022 claiming to be the successors-in-interest of the subject land from respondent Nos.5 and 6. In spite of affording them repeated opportunities on 13.12.2022, 26.12.2022, 28.12.2022, 11.04.2023 and 13.04.2023 they did not chose to pursue their applications, or to contest the main Writ Petition.

3. However, this Court is not inclined to dismiss their applications for non-prosecution as, from the averments made in support of the said applications, the petitioners therein, *prima facie*, appears to be the persons claiming through respondent Nos.5 and 6. In view of the same, I.A.Nos.3, 5 and 6 of 2022 are ordered and the petitioners therein shall stand impleaded as respondent Nos.11 to 13 in the main Writ Petition.

4. Heard Sri Vedula Srinivas, learned Senior Counsel for the petitioners, learned Assistant Government Pleader for Revenue for respondent Nos.1 to 4 and Sri D.Jagan Mohan Reddy, learned counsel appearing for respondent No.7.

5. In the normal circumstances, this Court would not have entertained this Writ Petition and would have relegated the petitioners to approach the competent Civil Court to agitate their claim over the subject land, but for the serious allegation of fraud and fabrication of documents in the matter of changing the entries in the Revenue records at the instance of respondent Nos.5 and 6 basing upon an Ownership Certificate claimed to have been issued under Section 38E of the Andhra Pradesh (Telangana Area) Tenancy & Agricultural Lands Act, 1950 (for short 'the Act, 1950'), in favour of the father of respondent Nos.5 and 6 and the said allegation of fabrication of document remained uncontroverted. In other words, the ingenuity of the said Ownership Certificate is tacitly admitted and a copy of the

said Ownership Certificate is also failed to be produced before this Court.

6. Sri Vedula Srinivas, learned Senior Counsel contended that the land admeasuring Acs.11.14 gts., situated in Sy.No.89 of Gangaram Village, was originally stood patta in the name of one Mr. Mohammed Riyasat Ali Khan and the same is evident from the Khasra Pahani of the year 1954-55. On the demise of the said Mr. Mohammed Riyasat Ali Khan in the year 1992, the petitioners herein succeeded to the said extent of land and the name of petitioner No.1 herein, who is the wife of Mr. Mohammed Riyasat Ali Khan, was entered in the Revenue records as pattadar and possessor and the same continued till the year 2006-07. However, the name of petitioner No.1 was deleted from the Revenue records and the names of respondent Nos.5 and 6 were entered fraudulently without putting the petitioners on notice by the Revenue Authorities behind the back of the petitioners basing upon an alleged Ownership Certificate said to have been issued in the name of the father of respondent Nos.5 and 6 under Section 38E of the Act, 1950, though there was no such Ownership Certificate, dated 24.07.1975, ever issued in respect of the subject land. In support of his contention, learned Senior Counsel placed a strong reliance on a Memo issued by the office of the Revenue Divisional Officer, Ranga Reddy District East Division, bearing Lr. No.K/22/2008, dated 31.01.2007, wherein in response to a request

made by the General Power of Attorney holder of the petitioners, it was stated that on verification of the connected file bearing No.B/398/LRE75 it is found that no 38E certificate was granted in respect of Sy.Nos.83, 88 and 89 of Gangaram Village, Maheshwaram Mandal to anybody. He also placed strong reliance on the copy of the Pahanies for the year 2006-07 contending that the name of petitioner No.1 was continuing in the Revenue records as pattadar and possessor till the year 2007. Thus, learned Senior Counsel contended that the names of respondent Nos.5 and 6 were entered in the Revenue records by playing fraud on the petitioners and by placing reliance on a fabricated Ownership Certificate and as such, the entries that were made in favour of respondent Nos.5 and 6 and all other consequential entries made thereafter are all liable to be declared as *nonest* in the eye of law and void. He further submitted that, respondent No.2 while considering the Revision Petition filed by the petitioners committed a grave error in not going into the aspect of genuineness of the Ownership Certificates setup by respondent Nos.5 and 6 and erroneously dismissed the Revision Petition on the ground of delay and also on the ground that the previous Revision Petition filed by the petitioners was closed by the very same Authority. He further contended that respondent No.2 erroneously came to the conclusion that the petitioners herein have not produced any evidence to show that they are the legal representatives of the deceased Mr. Mohammed

Riyasat Ali Khan, and also on the ground that the death certificate of the said Mr. Mohammed Riyasat Ali Khan is not produced. He further contended that the petitioners have approached the Competent Civil Court and got their status being legal representatives of deceased Mr. Mohammed Riyasat Ali Khan was declared. Thus, he contended that respondent No.2, instead of going into the core issue of genuineness/existence or otherwise of the Ownership Certificate setup by respondent Nos.5 and 6, has taken up trivial issues and rejected the Revision Petition filed by the petitioners. He also placed a strong reliance on the Judgment of the Hon'ble Apex Court in the case of **Meghmala and Ors. v. G. Narasimha Reddy and Ors.**¹

7. On the other hand, Sri D.Jagan Mohan Reddy, learned counsel appearing for respondent No.7, contended that respondent No.6 after having got the land under the Ownership Certificate, dated 24.07.1975 sold the subject property to third parties under registered Sale Deed, dated 05.03.2001 vide document No.655 of 2001 and subsequently the same had changed various hands and ultimately respondent No.7 herein along with two others purchased an extent of Acs.5.07 gts., in Sy.No.89 under registered Sale Deeds, dated 28.11.2005 and 03.12.2005 vide documents Nos.7375 of 2005 and 7656 of 2005 respectively. Further, he also seriously disputed the General Power Attorney's said to have been executed by the petitioners herein on the

¹ (2010) 8 SCC 383

ground that the executants of different General Power of Attorney's claim themselves as absolute owners independently and the executants of the General Power of Attorney's were shown as residents of United States of America, Canada and also disputed the genuineness of the said General Power of Attorney's on the ground that they were not notarized before the Embassy of India in the concerned country and also on the ground that they were not duly notarized in the country in which they were shown to have been executed. He has also drawn the attention of this Court to the mutation proceedings issued in proceedings No.D/482/2006, dated 24.06.2006, mutating the land in Sy.No.89/AA in favour of respondent No.7 and two others to an extent of Acs.2.00 gts.

8. This Court has carefully considered the arguments advanced by learned counsel on either side and perused the entire material on record.

9. From the pleadings on record and from the arguments advanced on behalf of the petitioners by learned Senior Counsel, it is evident that the main contention of the petitioners is that there is no Ownership Certificate issued under Section 38E of the Act, 1950 in respect of the land situated in Sy.No.89 of Gangaram Village at any point of time, but, by fabricating the Ownership Certificate, respondent Nos.5 and 6 got their names entered in the Revenue records in respect of the subject land basing on the said fabricated certificate. In spite of

raising such a serious allegation of fraud and fabrication, a copy of the said Ownership Certificate, dated 24.07.1975 is not produced before this Court for consideration of the same by this Court. From the Memo, dated 31.01.2007, issued by the Revenue Divisional Officer concerned, it is evident that on verification of the relevant file, no Ownership Certificate under Section 38E of the Act, 1950, was issued in favour of any person in respect of the land in Sy.No.89. The said Memo is neither disputed seriously by any of the contesting respondents nor they produced a copy of the so-called Ownership Certificate before this Court. In spite of this Court asking learned counsel for respondent No.7 to produce the said certificate the learned counsel expressed inability to produce such certificate.

10. Though Sri D.Jagan Mohan Reddy, learned counsel appearing for respondent No.7 raised a doubt about the genuineness of the General Power of Attorney's executed by the petitioners herein in favour of the deponent of the affidavit filed in support of the Writ Petition, after the learned Senior Counsel for the petitioners clarified about the execution of the said General Power of Attorney's in the respective countries and the attestation made by the concerned Embassy of India and the notary public, he did not further persuade this Court to go into that aspect.

11. Admittedly, the names of respondent Nos.5 and 6 were entered in the Revenue records by deleting the name of Mr. Mohammed

Riyasat Ali Khan or the name of petitioner No.1 herein in respect of the subject land basing upon the Ownership Certificate, dated 24.07.1975. It is not clear when exactly the names of respondent Nos.5 and 6 were entered in the Revenue records. From the Pahani of the year 2006-07 which is placed on record, it is noticed that the name of petitioner No.1 was shown as pattadar and possessor in respect of the land admeasuring Acs.10.14 gts., in Sy.No.89. If the Ownership Certificate, dated 24.07.1975 is a genuine document the name of petitioner No.1 could not have been entered in the Revenue records as pattadar and possessor in the year 2006-07. The said Pahani placed on record by the petitioners is also not disputed by any of the contesting respondents.

12. In the light of the above discussion this Court is left with no other option except to accept the contention of the learned Senior Counsel for the petitioners that the Ownership Certificate setup by respondent Nos.5 and 6 is not a genuine document, especially in the context of the failure of the respondents to produce at least a copy of the so-called Ownership Certificate, dated 24.07.1975, before this Court.

13. Further from the counter affidavit filed by respondent No.6 before respondent No.2, it is noticed that the said Ownership Certificate was stated to have been issued by the concerned Mandal

Revenue Officer of Maheshwaram Mandal, Ranga Reddy District. The relevant portion of the said counter affidavit reads as under:-

"Subsequently, the father of the respondents came on record as Tenant of the suit schedule property. Subsequently, in the year 1975, the concerned M.R.O of Maheshwaram Mandal, R.R.District, issued Certificate of Ownership under Section 38E of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950, in respect of the suit schedule property, in favour of the father of the respondents, dated 24.07.1975, since then the father of the respondents was the absolute owner of the suit schedule property by virtue of Certificate of Ownership, under Section 38E of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950, issued by the concerned authority."

From the above, it is evident that it is the stand of respondent No.6 herein that the Ownership Certificate under Section 38E of the Act, 1950 was issued by the Mandal Revenue Officer of Maheshwaram Mandal on 24.07.1975, by which date the Mandals were not even existing. The system of bifurcating the District into various Mandals in the place of the then existing Talukas came into existence only after the year 1983. Hence, the question of Mandal Revenue Officer of Maheshwaram Mandal issuing an Ownership Certificate in the year 1975 i.e., much prior to the date of formation of Maheshwaram Mandal does not arise. Even otherwise, in terms of the provisions contained in the Act, 1950, it is only the Revenue Divisional Officer of the concerned Revenue Division who is empowered and competent to issue the Ownership Certificate under Section 38E of the Act, 1950. The Mandal Revenue Officer or the Tahsildar is not the competent Authority to issue any such Ownership Certificate. Perhaps, that is the reason why the respondents failed to produce a copy of the so-called

Ownership Certificate before this Court, realizing that the act of fabrication would come to light.

14. Then coming to the impugned order passed by respondent No.2, this Court has no hesitation to hold that respondent No.2 failed to exercise the jurisdiction conferred upon him under Section 9 of the Act, 1971. When a serious allegation of fraud and fabrication of documents is alleged resulting in amendment of the entries in the Revenue records, respondent No.2 ought have, *prima facie*, examined the said allegation and at least ought have directed respondent Nos.5 and 6 to produce a copy of such Ownership Certificate. But respondent No.2 failed to undertake such basic exercise and instead proceeded on the footing that the said Ownership Certificate was issued on 24.07.1975 and the petitioners filed Revision Petition after a lapse of sixty years. Once it is alleged that the said Ownership Certificate, dated 24.07.1975 is a fabricated document, there is no justification for respondent No.2 to take the date of that certificate as genuine date and count the period of limitation, especially in the absence of producing even a copy of such Ownership Certificate.

15. In the light of the conclusion already arrived at by this Court about the ingenuity of the Ownership Certificate in question it is not known when exactly the said Ownership Certificate was brought into existence and when the entries in the Revenue records were altered. Respondent No.2 ought have undertaken such an exercise to ascertain

the genuineness of the said Ownership Certificate in question. Therefore, the ground of limitation on which the impugned order is passed rejecting the Revision filed by the petitioners is totally erroneous and a result of non application of mind besides being perverse.

16. The other grounds of not establishing the relationship of the petitioners with the original pattadar Mr. Mohammed Riyasat Alikhan and non production of the death certificate of the original pattadar etc., are all concerned, the relevant documents i.e., the decree passed by the competent Civil Court in O.S.No.61 of 2007 on the file of the Court of the Junior Civil Judge, Ibrahimpatnam, Ranga Reddy District, dated 04.04.2007, is already placed before this Court and a copy of the death certificate is also placed on record. The General Power of Attorney's that were relied upon by the petitioners are all registered documents, dated 21.02.2006 and 05.06.2006 and 10.06.1994. Therefore, it is not open for the contesting respondents to dispute the genuineness of the said General Power of Attorney's. Perhaps, it is only on realizing that their claim basing upon the so-called Ownership Certificate cannot be sustained nor supported, respondent No.7 appears to have taken technical objections to non suit the petitioners from pursuing the present Writ Petition.

17. This Court having taken note of the fraud resulting in changing the entries in the Revenue records in respect of the land

admeasuring Acs.10.14 gts., in Sy.No.89 of Gangaram Village, is of the firm view that it is the duty of this Court while exercising its jurisdiction under Article 226 of the Constitution of India to set right the things in order and avoid all actions resulting in from such fraud.

18. It is settled law that mere entries in the Revenue records neither confer title nor take away the title of any person. It is also settled law that a person by executing a registered conveyance deed cannot convey a better title than what he possess. In the light of the conclusion arrived at by this Court that the Ownership Certificate, dated 24.07.1975, is not a genuine document and the change of entries basing upon such Ownership Certificate are all *void* and *nonest* in the eye of law.

19. The view of this Court is also supported by the Judgment of the Hon'ble Apex Court in **Meghmala's** case (1 supra), wherein the Hon'ble Apex Court held as under:-

"It is settled proposition of law that where an applicant gets an order/office by making misrepresentation or playing fraud upon the competent Authority, such order cannot be sustained in the eye of law. 'Fraud avoids all judicial acts, ecclesiastical or temporal.' (Vide **S.P. Chengalvaraya Naidu (dead) by L.Rs. v. Jagannath (dead) by L.Rs. & Ors.**²) In **Lazarus Estate Ltd. v. Besalay**³, the Court observed without equivocation that 'no judgment of a Court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything.'

In **Andhra Pradesh State Financial Corporation v. M/s. GAR Re-Rolling Mills & Anr.**⁴ and **State of Maharashtra & Ors. v. Prabhu**⁵, this Court observed that a writ Court, while exercising its

² AIR 1994 SC 853

³ (1956) 1 All ER 341 (CA)

⁴ AIR 1994 SC 2151

⁵ (1994) 2 SCC 481

equitable jurisdiction, should not act as to prevent perpetration of a legal fraud as the courts are obliged to do justice by promotion of good faith. 'Equity is always known to defend the law from the crafty evasions and subtleties invented to evade law.'

In **Smt. Shrisht Dhawan v. M/s. Shaw Brothers**⁶ it has been held as under:

'Fraud and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence. It is a concept descriptive of human conduct.'

In **United India Insurance Co. Ltd. v. Rajendra Singh & Ors.**⁷ this Court observed that 'Fraud and justice never dwell together' (*fraus et jus nunquam cohabitant*) and it is a pristine maxim which has never lost its temper over all these centuries.

The ratio laid down by this Court in various cases is that dishonesty should not be permitted to bear the fruit and benefit to the persons who played fraud or made misrepresentation and in such circumstances the Court should not perpetuate the fraud. (See **District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram & Anr. v. M. Tripura Sundari Devi**⁸, **Union of India & Ors. v. M. Bhaskaran**⁹, **Vice Chairman, Kendriya Vidyalaya Sangathan & Anr. v. Girdharilal Yadav**¹⁰, **State of Maharashtra v. Ravi Prakash Babulalsing Parmar**¹¹, **Himadri Chemicals Industries Ltd. v. Coal Tar Refining Company**¹² and **Mohammed Ibrahim & Ors. v. State of Bihar & Anr.**¹³).

Fraud is an intrinsic, collateral act, and fraud of an egregious nature would vitiate the most solemn proceedings of courts of justice. Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. The expression 'fraud' involves two elements, deceit and injury to the person deceived. It is a cheating intended to get an advantage. (Vide **Dr. Vimla v. Delhi Administration**¹⁴, **Indian Bank v. Satyam Fibres (India) Pvt. Ltd.**¹⁵, **State of Andhra Pradesh v. T. Suryachandra Rao**¹⁶, **K.D. Sharma v. Steel Authority of India Ltd. & Ors.**¹⁷ and **Regional Manager, Central Bank of India v. Madhulika Guruprasad Dahir & Ors.**¹⁸).

An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in

⁶ AIR 1992 SC 1555

⁷ AIR 2000 SC 1165

⁸ 1990 (3) SCC 655

⁹ 1995 Supp (4) SCC 100

¹⁰ 2004 (6) SCC 325

¹¹ 2007 (1) SCC 80

¹² AIR 2007 SC 2798

¹³ (2009) 8 SCC 751

¹⁴ AIR 1963 SC 1572

¹⁵ (1996) 5 SCC 550

¹⁶ AIR 2005 SC 3110

¹⁷ (2008) 12 SCC 481

¹⁸ (2008) 13 SCC 170

relation to a property would render the transaction *void ab initio*. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including *res judicata*. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true or false. Suppression of a material document would also amount to a fraud on the court. (Vide **S.P. Changalvaraya Naidu** (2 supra); **Gowrishankar & Anr. v. Joshi Amba Shankar Family Trust & Ors.**¹⁹, **Ram Chandra Singh v. Savitri Devi & Ors.**²⁰, **Roshan Deen v. Preeti Lal**²¹, **Ram Preeti Yadav v. U.P. Board of High School & Intermediate Education**²², and **Ashok Leyland Ltd. v. State of Tamil Nadu & Anr.**²³)

In **Kinch v. Walcott**²⁴, it has been held that:-

'... mere constructive fraud is not, at all events after long delay, sufficient but such a judgment will not be set aside upon mere proof that the judgment was obtained by perjury.'

Thus, detection/discovery of constructive fraud at a much belated stage may not be sufficient to set aside the judgment procured by perjury.

From the above, it is evident that even in judicial proceedings, once a fraud is proved, all advantages gained by playing fraud can be taken away. In such an eventuality the questions of non-executing of the statutory remedies or statutory bars like doctrine of *res judicata* are not attracted. Suppression of any material fact/document amounts to a fraud on the court. Every court has an inherent power to recall its own order obtained by fraud as the order so obtained is *non est*."

20. In the light of the above Judgment of the Hon'ble Apex Court, yet another reason given by respondent No.2 for refusing to entertain the Revision Petition through the impugned order stating that the earlier Revision Petition filed by the petitioners was closed also does not stand, to legal scrutiny.

¹⁹ AIR 1996 SC 2202

²⁰ (2003) 8 SCC 319

²¹ AIR 2002 SC 33

²² AIR 2003 SC 4268

²³ AIR 2004 SC 2836

²⁴ 1929 AC 482

21. As respondent Nos.11 to 13 are also stand in the same lines as that of respondent No.7, and claiming through the very same Ownership Certificate, this Court is of the considered view that all the conclusions arrived at while considering the case of respondent No.7 would equally applies to the case of respondent Nos.8 to 11.

22. In the light of the above, the impugned order dated 15.09.2016 is quashed declaring that the entries that were made in the Revenue records basing upon the Ownership Certificate, dated 24.07.1975, entering the names of respondent Nos.5 and 6 and all other subsequent change of entries in the Revenue records in respect of the subject land admeasuring Acs.10.14 gts., in Sy.No.89 of Gangaram Village, Maheshwaram Mandal, Ranga Reddy District, are declared as illegal and consequentially respondent Nos.1 to 4 are directed to take immediate steps for restoration of entries in the Revenue records as were existing prior to entering the names of respondent Nos.5 and 6 and consider the claim of the petitioners for mutation of their names in the Revenue records being the successors-in-interest of Mr. Mohammed Riyasat Ali Khan, by following due process of law.

23. The entire exercise as directed above shall be completed by respondent Nos.1 to 4 within a period of three (03) months from the date of receipt of a copy of this order.

24. Accordingly, the Writ Petition is allowed. No costs.

As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed.

SD/-A.V.S. PRASAD
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, (Revenue Department), The State of Telangana, Secretariat, Hyderabad.
2. The Joint Collector-I, Rangareddy, Rangareddy District.,
3. The Additional Revenue Divisional Officer, Hyderabad East, Hyderabad.
4. The Mandal Revenue Officer, Maheswaram Mandal, R.R.District
5. One CC to SRI M. RAJENDER REDDY, Advocate [OPUC]
6. One CC to SRI D. JAGAN MOHAN REDDY, Advocate [OPUC]
7. One CC to SRI A. SRINIVASA SARMA, Advocate [OPUC]
8. Two CCs to GP FOR REVENUE, High Court for the State of Telangana. [OUT]
9. Two CD Copies

BN
LS

HIGH COURT

DATED:10/07/2023

ORDER

**I.A.Nos.3,5 & 6 OF 2022
IN/AND
WP.No.7539 of 2017**



**ORDERING THE I.A. Nos. 3,5 & 6
ALLOWING THE WRIT PETITION**

12
[Signature]
17/08/2023