

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 8177 OF 2010

K. RAMA KOTAIAH, GPA HOLDER & ANR. APPELLANT(S)

VERSUS

ANJANEYULU AND ORS. RESPONDENT(S)

ORDER

Appellants are aggrieved by the judgment dated 24th April, 2008 passed by the High Court of Andhra Pradesh allowing Writ Petition No. 2495 of 2008, whereby the eviction order passed against the respondent nos. 1 to 9 holding them to be land grabbers in unauthorised occupation of the land of the appellants under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, has been set aside.

2. We have heard at length the learned counsel for the appellants and the respondents and perused the records.
3. The primary dispute relates to identification of plot no. 184, which the first appellant claims he had purchased vide registered sale deed dated 26th April 1967. The respondents, who are in possession of the land, on the other hand, deny that the land belongs to appellants. The respondents state that they have made construction and are in

possession of the plot bearing no. 155 and rely on the registered sale deed dated 26th July, 1967, which relates to the plot.

4. The two sale deeds pertain to plots located in Survey Nos. 160, 162, 163/1, 164, 165/1 of Mylaradevapalli Village, Rajendra Nagar Mandal, Ranga Reddy District.
5. Our attention was drawn by both sides to the report dated 26th July, 2005 of the Mandal Revenue Officer who was required by the Special Tribunal to conduct local inspection/verification in terms of Rule 6 of the Andhra Pradesh Land Grabbing (Prohibition) Rules, 1988, which requires the Mandal Revenue Officer to submit a report as to the following: (i) correctness of statements made in the application in columns 1 to 15 and 19 in Form-I; (ii) the facts relating to ownership, actual possession and use of occupation; and (iii) other particulars and information as would be useful for the court to arrive at the correct decision in the plaint concerning unauthorised occupation.
6. The report refers to the location of plot no. 184 as identified by the Mandal Revenue Officer and states that the plot was sub-divided and in occupation of the respondents who had constructed separate houses. No other details and aspects are examined and eluded to and stated in the report.

7. Learned counsel for the respondents has stated that this report should not be relied upon as no notice was issued to the respondents. They also assert that the report is factually incorrect.

8. The report certainly does not meet the requirements and mandate of Rule 6 of the Andhra Pradesh Land Grabbing (Prohibition) Rules, 1988. Further, the respondents rightly state and the appellants do not dispute that the controversy relates to exact location/identity of the plot described as plot no. 184 in the sale deed relied upon by the appellants. To this extent the report is vague and unclear on the primary issue that relates to the demarcation of plot no. 184 as the respondents have alleged that they are in occupation of plot no. 155 which does not belong to and is not owned by the appellants. Counsel for both sides accept that the Mandal Revenue Officer had not testified as a witness before the Special Judge.

9. The High Court in the impugned order has also stated that appellants had not led any evidence to prove the sale deed dated 26th April 1967 i.e. the document of title relied upon by them. Learned senior advocate for the appellants has submitted that the presumption under Section 90 of the Evidence Act would apply as the sale deed is more than 30 years old. However, it is conceded that the respondents could be equally

entitled to the same presumption as the registered sale deed relied upon by them was executed on 26th July, 1967.

10. During the course of hearing, the counsel for the appellants and the respondent (writ petitioners) have stated that an order of remand would be justified as a question of identification of the plot of which ownership is claimed by the appellants, has not been examined in detail and depth. Further, though both sides have relied upon respective registered sale deeds, the report of the Mandal Revenue Officer has not noted the sale deeds and is not of much assistance on the question of identification/location of the two plots. Importantly, the Mandal Revenue Officer had not deposed in order to clarify the situation.
11. It may be relevant to state that the impugned order passed by the Division Bench of the High Court in Writ Petition No. 2495 of 2008 has set aside the order of the Special Judge dated 17th January, 2008. This Writ Petition was preferred by respondent nos. 6, 7, 8 and 9 and not by respondent nos. 1, 2, 3, 4 and 5 who had not independently challenged the order of the Special Judge dated 17th January, 2008. Be that as it may, the findings of the Division Bench of the High Court would equally apply to all cases and the order dated 17th January, 2008 has been struck down in entirety. As we are passing the order of remand for fresh adjudication, we do not think the aforesaid aspect is of material

consequence. It is accepted that execution proceedings have not been initiated against the respondents who had not preferred a writ petition.

12. We have been informed that the matter has now to be considered and decided by the concerned District Judge. Accordingly, we partly accept the present appeal with the order of remand to the District Judge to examine the claim and counter-claim of the appellants as well as the respondents and to decide the question of demarcation of the plots; the subject matter of the sale deed dated 26th April, 1967 as relied upon by the appellants and sale deed dated 26th July, 1967 as relied upon by the respondent. While deciding the controversy on remand, the District Judge would not be bound by the observations and findings recorded by the Special Judge and the Division Bench of the High Court and the present order. The appeal is accordingly disposed of in the aforesaid terms without any order as to costs.

.....J.
(N.V. RAMANA)

.....J.
(SANJIV KHANNA)

.....J.
(KRISHNA MURARI)

**NEW DELHI;
OCTOBER 22, 2019.**

ITEM NO.104

COURT NO.3

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).8177/2010

K.RAMA KOTAIAH, GPA HOLDER & ANR.

Appellant(s)

VERSUS

ANJANEYULU & ORS.

Respondent(s)

Date : 22-10-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE KRISHNA MURARI

For Appellant(s) Mr. R. Basant, Sr.Adv.
Mrs. K. Radha, Adv.
Mr. K. Maruthi Rao, Adv.
Mrs. Anjani Aiyagari, AOR

For Respondent(s) Mr. G. Ramakrishna Prasad, AOR
Mr. Suyodhan Byrapaneni, Adv.
Ms. Filza Moonis, Adv.
Mohd. Wasay Khan, Adv.
Mr. Bharat J. Joshi, Adv.

M/S. Lawyer S Knit & Co, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the signed order
without any order as to costs.

(SATISH KUMAR YADAV)
AR-CUM-PS

(RAJ RANI NEGI)
ASSISTANT REGISTRAR

(Signed order is placed on the file)