

AZIZIA BEE @ SHAIK MUJEEB (D) THR. LRS.

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v.

GOVT. OF A.P. & ORS.

(Civil Appeal No. 5441 of 2015)

AUGUST 16, 2017

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**[R.F. NARIMAN AND SANJAY KISHAN KAUL, JJ.]**

*Land laws – Claim of title on land – Error committed by Court by mixing-up of two properties – Land in question had been subject matter of urban land ceiling proceedings – Appellants contended that despite the fact that qua the said land, all findings were in their favour, yet the Division Bench of the High Court had set aside the order of the Single Judge, and linked the appellants with persons who had been held as land grabbers – Held: The title of appellants to the land in question is clearly traceable to a compromise decree pursuant to which sale deed was entered in favour of their mothers – Also, the State Government had recommended issuance of supplementary sethwar in respect of the land belonging to the appellants – Both Single Judge and Division Bench held that the land owned by the appellants was not concerned with any evacuee proceedings – Division Bench committed error in mixing up the appellants’ property with another property – Therefore, the order of the Division Bench set aside and directions in the order of the Single Judge restored.*

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**Allowing the appeals Nos. 5442-5456 of 2015 and dismissing the appeal No. 5441 of 2015, the Court**

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**HELD: 1. The controversy lies in a very narrow compass. One thing is clear that the appellants title to the land in Survey no.129 is clearly traceable to a compromise decree pursuant to which a sale deed was entered into in favour of the mother of the appellants. Also by a memorandum, the Andhra Pradesh Government has recommended that supplementary sethwar be issued in the revenue records in respect of 41 cases, one of which comprises the land belonging to the appellants. [Para 8] [610-D]**

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A            2. It is not necessary to refer in detail to the urban land  
 ceiling proceedings, except to state that those proceedings were  
 taken by the Urban Land Ceiling Authorities, which culminated  
 in the repeal Act of 1999 being applied to the lands belonging to  
 the appellants. Somehow, in the course of those proceedings,  
 B            the name of another gentleman was brought up, which led to  
 confusion and allegations made against the appellants that their  
 property had already been dealt with in evacuee proceedings.  
 Ultimately, both the single Judge and the Division Bench have  
 held in favour of the appellants on this specific count and have  
 stated that the Survey No. owned by the appellants is not  
 C            concerned with any evacuee proceedings. [Para 9] [610-E-F]

                 3. The Division Bench of High Court did not keep the two  
 Surveys Nos., namely Survey no. 403 and Survey no.129 apart,  
 while deciding the appeal before it. It is clear that the Division  
 Bench is in error in mixing up the two properties. [Paras 10-11]  
 D            [611-E-G]

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5441  
 of 2015.

E            From the impugned final Judgment and Order dated 16.03.2011  
 passed by the High Court of Judicature at Andhra Pradesh at Hyderabad  
 in W.A. No.236 of 2009

WITH

F            Civil Appeal Nos.5442-5456 of 2015.

Dushyant Dave, V.V.S. Rao, Sr. Advs., Ms. Bina Madhavan, K.K.  
 Waghray, Piyush Dwivedi, Mrs. Elizabeth Antony (for M/s Lawyer S.  
 Knit & Co.), G. Ramakrishna Prasad, Mohd. Wasay Khan, Ms. Filza  
 Moonis, Advs. for the Appellant.

G            C. S. Vaidyanathan, V. Giri, Sr. Advs., P. Venkat Reddy, Prashant  
 Kr. Tyagi (for M/s Venkat Paliwai Law Associates), G.N. Reddy,  
 Venkateshwar Rao Anumolu, Prabhakar Parnam, Ananga Bhattacharyya,  
 Ms. Devahuti Tamuli, Mukund P. Unny, Advs. for the Respondents.

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The Judgment of the Court was delivered by

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**R.F. NARIMAN, J.**

CIVIL APPEAL NO.5441 OF 2015:

1. In view of the judgment in Civil Appeal Nos. 5439-5440/2015 dated 09.08.2017, nothing survives in this appeal.

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2. The civil appeal is dismissed accordingly.

CIVIL APPEAL NOS. 5442-5456 OF 2015:

3. The controversy in the present appeals centers around a piece of land ad-measuring 6205 sq. mts. in Survey No. 129/45/D in Jubilee Hills, Hyderabad. The appellants before this Court claim their title from a compromise decree dated 30.08.1961 followed by a Sale Deed dated 16.07.1962 to their predecessors.

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4. On 09.08.2017, this Court had rejected all appeals concerning Survey No. 403 part in T.S. No.19/P, Block-K, Ward No.12, situated at Road No.12, Banjara Hills, Shaikpet Village and Mandal, Hyderabad. The present appeals are from an order of the Division Bench of 16.03.2011 upsetting a single Judge Bench order of 03.12.2008.

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5. Mr. Dushyant A. Dave, learned Senior Counsel appearing on behalf of the appellants has argued before us that, unfortunately for him, despite the fact that *qua* his land which had been the subject-matter of urban land ceiling proceedings, all findings were in his favour, yet the Division Bench has upset the single Judge order by somehow linking him with persons who have been held by us as land grabbers in Survey No. 403 part in T.S. No.19/P, Block-K, Ward No.12, situated at Road No.12, Banjara Hills, Shaikpet Village and Mandal, Hyderabad. In fact, according to him, in his case the only question that really arose in the urban land ceiling proceedings was as to whether one Mohd. Taquiuddin happened to be a person against whom orders were passed under the Evacuee Act. According to the learned Senior Counsel, once this was concurrently rejected by both single Judge and Division Bench, nothing remained in his case except to follow the directions of the single Judge.

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6. Mr. C.S. Vaidyanathan, learned Senior Counsel appearing on behalf of the State, has very fairly taken the stand that he is only concerned with Survey No. 403 part in T.S. No.19/P, Block-K, Ward No.12, situated at Road No.12, Banjara Hills, Shaikpet Village and Mandal, Hyderabad

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A and not with Survey No. 129/45/D. According to the learned Senior Counsel, if the appellants have lost possession at some point down the line, this Court should refrain from going into the said aspect, but may otherwise clarify the position.

B 7. Mr. V. Giri, learned Senior Counsel, appearing on behalf of Andhra Prabha Publications, has also contended that the allotment made in his favour by a Government Order dated 19.08.2005 should not be disturbed inasmuch as it has reference only to Survey No. 403 part in T.S. No.19/P, Block-K, Ward No.12, situated at Road No.12, Banjara Hills, Shaikpet Village and Mandal, Hyderabad.

C 8. Having heard the learned Senior Counsel appearing for all the parties, we are of the view that the controversy now lies in a very narrow compass. One thing is clear that the appellants title to the land in Survey No. 129/45/D is clearly traceable to a compromise decree of 30.08.1961 pursuant to which a sale deed was entered into on 16.07.1962 in favour of one Mercy Sona Bai Chellappa, who is the mother of the appellants before us. Also by a memorandum dated 06.12.1967, the Andhra Pradesh Government has recommended that supplementary sethwars be issued in the revenue records in respect of 41 cases, one of which comprises the land belonging to the appellants.

E 9. It is not necessary to refer in detail to the urban land ceiling proceedings, except to state that those proceedings were taken by the Urban Land Ceiling Authorities, which culminated in the repeal Act of 1999 being applied to the lands belonging to the appellants. Somehow, in the course of those proceedings, the name of another gentleman called Syed Taquiddin was brought up, which led to confusion and allegations made against the appellants that their property had already been dealt with in evacuee proceedings. Ultimately, both the single Judge and the Division Bench have held in favour of the appellants on this specific count and have stated that the Survey No. owned by the appellants is not concerned with any evacuee proceedings. This being the case, the single Judge ultimately held:

G From the discussion undertaken above, the inevitable conclusion that would emerge is that the lands covered by this batch of writ petitions except WP.No.6668 of 2006 are not liable for allotment to third parties including the Andhra Prabha Publications until and unless it is conclusively held by the competent forum that these

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lands belong to and vested in the State Government. As the respondents failed to come out with a definite stand as to whether the lands over which petitioners in these writ petitions have interest are included in the extent of 8,000 square metres of land allotted to the Andhra Prabha Publications or not, it is necessary in the interests of justice that the respondents shall get the survey conducted by the competent authority. If it emerges in such survey that the land claimed by the petitioners in this batch of writ petitions except WP.No.6668 of 2006 forms part of the land allotted to the Andhra Prabha Publications, the same shall stand excluded from the land allotted to the said publications. After exclusion of such land, if any part of the land remains from out of the said extent of 8,000 square metres, the State Government shall be free to allot such remaining land to the Andhra Prabha Publications. The District Collector, Hyderabad shall cause the survey conducted in the presence of the representatives of the petitioners in this batch of writ petitions except WP.No.6668 of 2006 and communicate the survey result to them. If the petitioners feel aggrieved by such survey results, they shall be free to avail appropriate remedies available to them in law.

10. Unfortunately, the Division Bench did not keep the two Survey Nos., namely Survey No. 403 part in T.S. No.19/P, Block-K, Ward No.12, situated at Road No.12, Banjara Hills, Shaikpet Village and Mandal, Hyderabad, and Survey No. 129/45/D, apart while deciding the appeal before it. Inasmuch as confusion therefore arose as to the appellants, who do not have any land in Survey No. 403 part in T.S. No.19/P, Block-K, Ward No.12, situated at Road No.12, Banjara Hills, Shaikpet Village and Mandal, Hyderabad, the Division Bench went on to hold that all the appeals before it would be allowed and the single Judge order was therefore set aside.

11. According to us, it is clear that the Division Bench is in error in mixing up the two properties. We have been informed by both Mr. Vaidyanathan and Mr. Giri, learned Senior Counsel that possession has been given pursuant to the Government Order dated 19.08.2005 to Andhra Prabha Publications of 8000 sq. mts. entirely from Survey No. 403 part in T.S. No.19/P, Block-K, Ward No.12, situated at Road No.12, Banjara Hills, Shaikpet Village and Mandal, Hyderabad.

A            12. This being the case, it is clear that the lands belonging to the appellants contained in Survey No. 129/45/D have nothing whatever to do with the lands comprised in Survey No. 403 part in T.S. No.19/P, Block-K, Ward No.12, situated at Road No.12, Banjara Hills, Shaikpet Village and Mandal, Hyderabad.

B            13. Accordingly, we set aside the order of the Division Bench. The directions contained in the order of the single Judge in Writ Petition Nos. 18353 of 2006 and 26478 of 2006 are restored.

14. The appeals are allowed in the aforesaid terms.

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Ankit Gyan

Appeals disposed of.