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APHC010081252023



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3330]

THURSDAY, THE FIFTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.4256 of 2023

Between:

- 1.C.V.NARAYANA REDDY, S/O LATE C.VENKATA RAMI REDDY, AGED- 70 YEARS, OCC- BUSINESS, R/O 12-3-48, SAI NAGAR, ANANTAPUR, ANANTAPUR DISTRICT
- 2.CHAVVA RAJA SEKHAR REDDY, S/O LATE C.VENKATA RAMI REDDY, AGED- 60 YEARS, OCC- BUSINESS, R/O 12-3-48, SAI NAGAR, ANANTAPUR, ANANTAPUR DISTRICT

...PETITIONER(S)

AND

- 1.THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF REVENUE SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT
- 2.THE JOINT COLLECTOR, ANANTAPUR, ANANTAPUR DISTRICT
- 3.THE REVENUE DIVISIONAL OFFICER, ANANTAPUR, ANANTAPUR DISTRICT
- 4.THE TAHSILDHAR, ANANTAPUR MANDAL, ANANTAPUR DISTRICT
- 5.CHAKARI CHINNA RAMANJANEYULU, S/O CHAKARI JUTURU KASEEMAPPA, R/O RUDRAMPETA (V), ANANTAPUR, ANANTAPUR DISTRICT
- 6.CHAKARI JUTURU SANJANNA, S/O CHAKARI JUTURU KASEEMAPPA, R/O RUDRAMPETA (V), ANANTAPUR, ANANTAPUR DISTRICT
- 7.CHAKARI JUTURU SIVA NARAYANA, S/O CHAKARI JUTURU

KASEEMAPPA, R/O RUDRAMPETA (V), ANANTAPUR,
ANANTAPUR DISTRICT

...RESPONDENT(S):

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 a Writ or Order more particularly one in the nature of one in nature of Writ of Certiorari calling for records in and in relation to Proceedings D.Dis.No.D2(B)/1871/2022 dt.21.01.2023 issued by the Revenue Divisional Officer- Anantapur, Anantapur District and quash the same holding it as illegal, in contravention of Provisions of Andhra Pradesh Rights in Land and Pattadhar Pass Books Act, 1971 to the extent of issuing direction to Tahsildhar, Anantapur Rural Mandal for mutating the names of Respondents 5 to 7 in Web Land Adangal with respect to Petitioners' Open Lands admeasuring an extent of Ac 0-58 Cents out of total extent of Ac 1-16 Cents in Survey No.36-2 situated at Kakkalapalli (v), Anantapur Rural (M), Anantapur District.

Counsel for the Petitioner(S):

1.KANAKALA DEVI PRASANNAKUMAR

Counsel for the Respondent(S):

1.M KARIBASAI AH
2.GP FOR REVENUE

The Court made the following:

THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO**WRIT PETITION No.4256 OF 2023****ORDER:**

The present Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

"...to issue a Writ or Order more particularly one in the nature of Writ of Certiorari calling for records and in relation to Proceedings D.Dis.No.D2(B)/1871/2022 dt.21.01.2023 issued by the Revenue Divisional Officer, Anantapur, Anantapur District and quash the same holding it as illegal, in contravention of Provisions of Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 to the extent of issuing direction to Tahsildar, Anantapur Rural Mandal for mutating the names of Respondents 5 to 7 in Web Land Adangal with respect to Petitioners' Open Lands admeasuring an extent of Ac.0.58 Cents out of total extent of Ac.1.16 Cents in Survey No.36-2 situated at Kakkalapalli (v), Anantapur Rural (M), Anantapur District and pass such other order....."

2. The unofficial respondents 5 to 6 herein submitted a representation/application with a request to take necessary action for mutation of land to an extent of Ac.0.58 cents out of Ac.1.16 cents in Sy.No.36/2 of Kakkalapalli village of Anantapur Rural Mandal. The said land is classified as patta land according to RSR of the Village and stands in the name of one Sanjeevugari Chakari Nalligadu, who is grand-father of the unofficial respondents. Their grandfather Sanjeevugari Chakari Nlligadu is the diglot pattadar to an extent of

Ac.1.16 cents in Sy.No.36/2 had two sons by name Chakari Juturu Nallappa and Chakari Juturu Kasemappa. Both the sons of Chakari Nalligadu had been partitioned. The father of the unofficial respondents i.e., Chakari Juturu Kasemappa has filed suit for partition, vide O.S.No.563 of 2009 on the file of the Principal Junior Civil Judge, Anantapuram, for partition. This suit was referred to Lok Adalat, which issued an award on 03.07.2010, dividing the property into two branches, each holding Ac.0.58 cents. Later, unofficial respondents herein have applied to the 3rd respondent-Revenue Divisional Officer to record their names in the revenue records. The 3rd respondent-Revenue Divisional Officer after following due procedure and relying on the Award of the Lok Adalat has permitted the 4th respondent-Tahsildar, vide proceedings in D.Dis.No.D2(B)/1871/2022 dated 21.01.2023, to mutate the names of the unofficial respondents to an extent of Ac.0.58 cents out of Acs.1.16 cents.

3. The said proceeding dated 21.01.2023 has been challenged in the present Writ Petition by the writ petitioners herein on the basis that an extent of Ac.1.16 cents in Sy.No.36/2 was alienated by Chakari Juturu Nallappa, i.e., first branch of Sanjeevugari Chakari Nalligadu in the year 1945. Subsequently, several transactions were occurred and

the 1st petitioner herein has purchased the property to an extent of Ac.0.58 cents from C.Venkata Rami Reddy, through registered document No.2314/2003 dated 28.01.2003 and the 2nd petitioner herein has purchased to an extent of Ac.0.58 cents from K.Vedamma Peddamanikyamma, through registered document No.3108/1984 dated 21.01.1984. Since then, they are in the original possession and enjoyment of the property and they are the bona fide purchasers of the property. The Revenue Divisional Officer is not the competent authority to declare the title of the property as per the impugned order and the unofficial respondents cannot file any application before the Revenue Divisional Officer, who serves as the Appellate Authority, no representation can be treated as an appeal and it is emphasizing that the right to appeal is a substantive right and must be conferred by a statute and the appeal is provided under Section 5(5) of the A.P.Rights in Land and Pasttadar Pass Books Act, 1971 (for short hereafter called as 'the Act') for against the original proceedings or substantive determination under Sections 4, 5 and 5-A of the Act, unless there is the impugned order from the Primary Authority, i.e., Tahsildar, and the Revenue Divisional Officer cannot entertain the application and called for report of the Tahsildar and the very exercise of the power by the 3rd

respondent-R.D.O. is without jurisdiction and the petitioners herein have made a layout of the land in question and as per the procedure to make a layout, some part of the land has been gifted to the Gram Panchayat as the land is not an agricultural land, the revenue authorities have no jurisdiction to issue pattadar passbook and the Pattadar Passbooks Act is inapplicable and the Adangals in the names of the unofficial respondents are not the revenue records, as envisaged under Rule 3 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 (for short, hereafter call as Rules'), hence, prayed to set aside the impugned order of the 3rd respondent-R.D.O. dated 21.01.2023.

4. It is argued by the learned Senior Counsel Sri O.Manohar Reddy that under Article 110 of the Limitation Act, 1963, the unofficial respondents have lost their right to enforce a right to share as the limitation provides 12 years for a suit by a person excluded from joint family property, non-filing of suit, as provided under Article 110 of the Limitation Act, 1963, the unofficial respondents have extinguished their right to property under Section 27 of the Limitation Act, 1963; on this ground also, it is prayed to set aside the impugned order and further argued that Section 44 of Transfer of Property Act comes into play. And it is further argued that even assuming that the unofficial respondents

herein have filed an application to mutate their name in the revenue records not for amendment of records that an application has to be filed within one year as per the limitation prescribed under sub-section (3) of the Act, as outlined in the provision “any person affected by an entry in such record of rights may, within a period of one year from the date of the notification referred to in sub-section (2), apply for rectification of the entry to such officer as may be prescribed”.

5. Learned counsel for the petitioners argued that the unofficial respondents should have been initiated a suit to establish their rights under Section 8(2) of the Act and further stated that the unofficial respondents previously have filed suit O.S.No.426 of 2017 against the writ petitioners, which was subsequently dismissed as not pressed. Therefore, the unofficial respondents cannot claim right and title over the property; additionally, it is stated that the Revenue Authorities have no jurisdiction or lacks jurisdiction, as the agriculture land is converted into plots. Hence, for all these reasons, prayed to set aside the impugned order dated 21.01.2023.

6. Learned Senior Counsel relied on the order of a Division Bench of this Court in the case of ***G.Damodhar and others Vs. State of Andhra***

Pradesh, rep. by its Principal Secretary reported in 2025 SCC Online AP 3951. A Division Bench of this Court held that under Section 5(4) of the ROR Act, the impugned order is clearly without jurisdiction, inasmuch as there is no underlying order of the Tahsildar, against which such an appeal could have been filed. Relying on the finding of the supra stated order, the learned Senior Counsel has voiced that the said judgment is squarely applicable to the present facts of the case, as the unofficial respondents have filed application before the R.D.O. and the R.D.O. has no jurisdiction to entertain the application filed by the unofficial respondents herein.

7. Heard Sri O.Manohar Reddy, learned Senior Counsel, assisted by Sri K.Devi Prasanna Kumar, learned counsel for the writ petitioners; and Sri P.Veera Reddy, learned Senior Counsel assisted by Sri Karibasaiah, learned counsel for the unofficial respondents; and learned Assistant Government Pleader for the official respondents.

8. On the other hand, denying the contentions raised by the petitioners' counsel, learned Senior Counsel Sri P.Veera Reddy, would submit that the property in question belongs to one Saneevugari Chakari Nalligadu who has two sons: first son is Chakari Juturu

Nallappa and the second son is Chakari Juturu Kasemappa and the first son of Chakari Nalligadu has sold the total entire extent of Ac.1.16 cents to third parties where the first branch has no salable interest over the total extent of Ac.1.16 cents and the unofficial respondents, however, have got the right to an extent of Ac.0.58 cents in the property. A partition suit filed as O.S.No.563 of 2009 against Chakari Juturu Nallappa, the first son of Saneevugari Chakari Nalligadu and the blood brother of the unofficial respondents, has been decreed through a Lok Adalat at the District Legal Services Authority in Ananthapuram. The award affirms that the unofficial respondents hold rights to an extent of Ac.0.58 cents of the property, while the vendors of the petitioners lack any salable interest in the property belonging to the unofficial respondents.

9. Learned Senior Counsel Sri P.Veera Reddy for the unofficial respondents argues that the unofficial respondents herein made an application to the 3rd respondent-R.D.O., who, in turn, obtained a report from the Tahsildar, Based on the report of 4th respondent-Tahsildar, the R.D.O. issued the order which is viewed as having been made by the Tahsildar, and the suit O.S.No.426 of 2017 relied by the petitioners that was not initiated by the unofficial respondents herein and the said

decree and judgment was not binding upon the unofficial respondents herein. Furthermore, it is stated that the layout was not authorized by the appropriate authority in accordance with relevant legal provisions. The petitioners obtained a decree from the Lok Adalat under Section 5(1) of the Act and subsequently made an application to the Revenue Authority. It is asserted that the writ petitioners cannot claim any rights as the vendor did not have saleable rights over the property. The unofficial respondents are not seeking any rectification regarding the R.D.O.'s jurisdiction, which they assert is not valid in light of the Award from the Lok Adalat. It is asserted that the writ petitioners cannot claim any rights, as the vendor did not have saleable rights over the property and the unofficial respondents are not pursuing for any rectification to agitate that the R.D.O.'s jurisdiction, which they assert is not valid in the light of the Award from the Lok Adalat, and the petitioners are having the other alternative remedy before the District Revenue Officer under Section 5(4) of the Act and further pointed out that the writ petitioners have not made the vendors of the property as parties to the Writ Petition. Article 110 of the Limitation Act is not applicable, since the unofficial respondents have initiated a partition suit, which has been decreed by the Lok Adalat, and it is further contended the rights of the

unofficial respondents have not been extinguished under Section 27 of the Limitation Act and Section 44 of the Act is not applicable when a clandestine sale by the one of the co-owner will not create any right /title to third party purchaser in the property and the purchaser has limited right to sue the property and the petitioner is required to file a suit for declaration and also it is further emphasized that the petitioner has the remedy of an appeal under Section 5(4) to the District Revenue Officer against the order impugned, hence for all these reasons, it is stated that the petitioners cannot seek any relief from this Court and the contentions that are unsustainable under law, hence prayed to dismiss the Writ Petition.

10. On hearing both the learned Senior Counsel and after giving my thoughtful consideration on the pleadings, the following exposition is given by the Court:

It is the primary contention of the petitioners that the R.D.O. is not having authority to deliver the impugned proceedings dated 21.01.2023, as he lacks jurisdiction and the petitioners are in continuous possession since for several decades and the unofficial respondents have lost their remedy to recover the possession of the property and relied on the

judgment of ***G.Damodhar and others Vs. State of Andhra Pradesh, rep. by its Principal Secretary*** reported in 2025 SCC Online AP 3951.

11. On perusal of the impugned order dated 21.01.2023, an application was made by the unofficial respondents herein to the R.D.O. to mutate their names. The R.D.O. passed an order, permitting the Tahsildar to mutate the names of the unofficial respondents to an extent of Ac.0.58 cents in Sy.No.36/2 of Kakkalapalli village, basing upon the Lok Adalat Award passed in O.S.No.563 of 2009. As argued by the learned Senior Counsel for the writ petitioners, the R.D.O. has not declared any right, title over the property and it is only directed the Tahsildar to mutate the names of the unofficial respondents, basing upon the Lok Adalat Award passed in O.S.No.563 of 2009. According to the Lok Adalat Award, the unofficial respondents are having right, title over the property to an extent of Ac.0.58 cents.

12. It is imperative to take a review of the relevant provisions of the A.P. Right in Land and Pattadar Passbooks Act, 1971, governing the issue for effective disposal of the Writ Petition.

13. Sections 3 and 5 of the Act have been amended in the year 2022 and the same is hereby extracted for effective disposal of the Writ Petition as hereunder:

"3. Preparation and maintenance of record of rights in all lands - (1) As soon as may be after the commencement of this Act in any area, there shall be [prepared and brought up-to-date, from time to time, by the Recording Authority] in such manner, and thereafter maintained in such form, as may be prescribed, a record of rights in all lands in every village in that area and such record of rights shall contain the following particulars, namely:-

- (a) the names of all persons who are owners, pattadars, mortgagees, occupants or tenants of the lands;
- (b) the nature and extent of the respective rights or interests of such persons and the conditions or liabilities, if any, attaching thereto;
- (c) the rent, revenue or other amount, if any payable by, or to any of such persons;
- (d) such other particulars as may be prescribed.

[Provided that whenever a resurvey/survey is conducted in a village under the Andhra Pradesh Survey and Boundaries Act, 1923, the Record of Rights in all lands in that Village shall be updated as per the resurvey/survey records prepared under the Andhra Pradesh Survey and Boundaries Act, 1923(Act No.VIII of 1923.)

(2) When in respect of any village the preparation of the record of rights referred to in sub-section (1) is completed, the fact of such completion shall be notified in the Andhra Pradesh Gazette [or the District Gazette] and in such other manner as may be prescribed.

(3) Any person affected by an entry in such record of rights may, within a period of one year from the date of the notification referred to in sub-section (2), apply for rectification of the entry to such officer as may be prescribed. The said officer may, after such inquiry as may be prescribed, give his decision on such application and direct the rectification of the record of rights in accordance with such decision which shall, subject to the provisions of section 9, be final.

5. [Amendment and up-dating of record of rights] - (1) On receipt of intimation of the fact of acquisition of any right referred to in section 4, the [Mandal Revenue Officer] shall determine as to whether, and if so in what manner, the record of rights may be amended in consequence thereof and shall carry out the amendment in the record of rights in accordance with such determination:

Provided that no order refusing to make an amendment in accordance with the intimation shall be passed unless the person making such intimation has been given an opportunity of making his representation in that behalf.

[Provided further that when the registration is approved by the Registering Officer, the name of the claimant shall be mutated in lieu of name of the executants on real time basis provisional in electronically maintained data duly assigning notional subdivision number as may be prescribed pending enquiry by the Tahsildar:

Provided also that the provisional mutation shall be confirmed by the Tahsildar electronically by following due procedure under sub-section (3) within thirty days of the registration. The aggrieved person may file an appeal to the Revenue Division Officer within a period of fifteen days from the date of order of the Tahsildar and decision of the appellate authority thereon shall subject to the provisions of section 9 be, final.]

(2) Where the recording authority has reason to believe that an acquisition of any right of a description to which section 4 applies has taken place and of which an intimation has not been made to him under that section and where he considers that an amendment has to be effected in the record of rights, the recording authority shall carry out the said amendment in the record of rights.

(3) The recording authority shall, before carrying out any amendment in the record of rights under sub-section (1) or sub-section (2) issue a notice in writing to all persons whose names are entered in the record of rights and who are interested in or affected by the amendment and to any other

persons whom he has reason to believe to be interested therein or affected thereby to show cause within the period specified therein as to why the amendment should not be carried out. A copy of the amendment and the notice aforesaid shall also be published in such manner as may be prescribed. The recording authority shall consider every objection made in that behalf and after making such enquiry as may be prescribed pass such order in relation thereto as he deems fit.

(4) Every order passed under this section shall be communicated to the persons concerned.

(5) Against every order of the recording authority either making an amendment in the record of rights or refusing to make such an amendment, an appeal shall lie to such authority as may be prescribed, within a period of sixty days from the date of communication of the said order and the decision of the appellate authority thereon shall, subject to the provisions of section 9, be final."

14. Whether the petitioners are having title or no title over the property? Any title passes to the petitioners only the seller having the saleable interest. Total property consists of Ac.1.16 cents belongs to Sanjeevugari Chakari Nalligadu and the two sons have got share of Ac.0.58 each, i.e., Chakari Juturu Nallappa and Chakari Juturu

Kasemappa. The first son Juturu Nallappa has sold the entire property acquired by Sanjeevugari Chakari Nalligadu to the writ petitioners where he has only a share of Ac.0.58 cents of land, no right title passes to the writ petitioners. Admittedly, the unofficial respondents are the owners of the property to an extent of Ac.0.58 cents and they have not sold the property. The writ petitioners are not denying the above said fact either in oral or in paper (writ affidavit). The petitioners who are claiming long possession, their vendors have no title right over the property. The writ petitioner seems to have been inducted into physical possession of the suit property on the basis of sale deeds which is in question now. From the contentions of both the learned Senior Counsels the title dispute emerges and it has to be decided by the appropriate forum and under Section 8 (2) of the act.

15. Learned Senior Counsel Sri O.Manohar Reddy for the petitioners has also raised a legal ground concerning the application for mutation by the unofficial respondents, counsel asserts that such an application must be filed within a period of one year from the notification of the entries in the revenue records and the unofficial respondents herein have not made an application within one year while the Award was passed by the Lok Adalat on 03.07.2010 that the unofficial respondents

should have been approached the Tahsildar for changing their names in the revenue records but rather than the R.D.O. It is stated that the 3rd respondent-R.D.O., who is the Appellate Authority, without any order from the primary authority or without out any source, the Revenue Divisional Officer cannot maintain any appeal before the Appellate Authority under Section 5(5) of the Act or the unofficial respondents have to approach the Revisional Authority under Section 9 of the Act, it is argued that the judgment of the Division Bench (referred supra-1) is squarely applicable to the facts of the case, hence, for all these reasons, it is pleaded that the impugned order is unsustainable in law and prayed to set aside the same.

16. As per the amendment of Sections 3 and 5 of the Act, all applications must be filed before the Tahsildar, if any such person acquired any right, on the basis of succession, survivorship, inheritance, partition, Government patta, Court decree or otherwise, the application has to be made before the Tahsildar and the Tahsildar under Section 4 of the RoR Act, after proper enquiry into the matter, carry out amendment to record and the claims of the persons and if the Tahsildar is unable to pass an order, he has to refer the matter to the R.D.O. under Section 5(2)(a) of the Act and in the case of sale deed presented

before the Tahsildar, he has to invariable record in the revenue record and he cannot reject. In other case, if the Tahsildar passes an order, the same is an appealable under Section 5(5) of the Act. If the Tahsildar fails to pass an order and refers the matter to the R.D.O., then the order of the R.D.O. has to be assailed before the District Revenue Officer under Section 5(4) of the Act.

17. The issue for consideration is, whether the Revenue Divisional Officer is the competent authority to adjudicate upon the application filed by the unofficial respondents. The concept of jurisdiction needs consideration. Jurisdiction means to determine all questions of law and fact relating to the issue by the authority. Admittedly, the R.D.O. has no jurisdiction to entertain the application for mutation. All applications shall be filed before the Tahsildar. In the present case, the unofficial respondents 5 to 7 have filed an application before the R.D.O. for mutation/rectification of the mistakes. Even the judgment of the Division Bench of this Court in the **G.Damodhar's** case (refereed supra-1), affirm the same. Admittedly, the R.D.O. has no jurisdiction. On this sole ground, the Writ Petition is liable to be allowed.

18. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior Courts or Tribunals or Authority under Article 226 of the Constitution of India. The impugned order by the 3rd respondent is liable to be set aside, who lacks the jurisdiction to deliver the order pursuant to the judgment of this Court (referred supra-1) and for the above exposition. It should be noted the alternative remedy available under Section 5(4) of the Act is not a bar to entertain the Writ Petition.

19. Accordingly, the Writ Petition is allowed and the impugned order is hereby set aside and the parties are at liberty to establish their right over the property before appropriate forum. There shall be no order as to costs. As a sequel, Interlocutory Applications, if any, pending shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 05.03.2026

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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.4256 OF 2023

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The writ petitioners are not denying the above said fact either in oral or in paper affidavit.