

**\*THE HON'BLE SRI JUSTICE A.V.SESHA SAI  
AND  
THE HON'BLE SRI JUSTICE VUTUKURU SRINIVAS**

**+ WRIT APPEAL No. 408 OF 2013**

**%Dated: 25-08-2022**

# Polakala Kuppuswamy (Died) and others.  
... Appellants/Respondent Nos.4 to 12

and

\$ 1. The District Collector, Chittoor, Chittoor District and another  
... Respondents/Writ Petitioners

2. The Commissioner of Appeals, O/o.Chief Commissioner of Land  
Administration, Hyderabad and others.  
... Respondents/Respondent Nos.1 to 3

! Counsel for the Petitioners :Sri D.V.Seetharama Murthy,  
learned Senior Counsel  
representing Sri Khadar  
Mohiddin, learned counsel

^ Counsel for the Respondents : Sri P.Bala Swamy,  
Learned Government Pleader

< GIST :

> HEAD NOTE :

? Cases referred :

1. AIR 1964 SC 477
2. AIR 1958 SC 398
3. AIR 1963 SC 1895
4. (2015) 16 SCC 689
5. AIR 1965 SC 338
6. 2005 (3) ALD 113 (FB)
7. 2022 (2) ALD 234 (AP)

**HON'BLE SRI JUSTICE A.V.SESHA SAI**

**AND**

**HON'BLE SRI JUSTICE VUTUKURU SRINIVAS**

WRIT APPEAL NO. 408 OF 2013

Between:

Polakala Kuppuswamy (Died) and others.

... Petitioners

**AND**

1. The District Collector, Chittoor, Chittoor District and another  
... Respondents/Writ Petitioners

2. The Commissioner of Appeals, O/o.Chief Commissioner of Land  
Administration, Hyderabad and others.

... Respondents/Respondent Nos.1 to 3

**DATE OF ORDER PRONOUNCED: 25.08.2022**

SUBMITTED FOR APPROVAL

**HON'BLE SRI JUSTICE A.V.SESHA SAI**

**AND**

**HON'BLE SRI JUSTICE VUTUKURU SRINIVAS**

- |                                                                                    |        |
|------------------------------------------------------------------------------------|--------|
| 1. Whether Reporters of Local newspapers<br>may be allowed to see the Judgments?   | Yes/No |
| 2. Whether the copies of judgment may be<br>Marked to Law Reporters/Journals.      | Yes/No |
| 3. Whether Their ladyship/Lordship wishes<br>to see the fair copy of the Judgment? | Yes/No |

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**A.V.SESHA SAI, J**

\_\_\_\_\_  
**VUTUKURU SRINIVAS, J**

**THE HON'BLE SRI JUSTICE A.V.SESHA SAI  
AND  
THE HON'BLE SRI JUSTICE VUTUKURU SRINIVAS**

**WRIT APPEAL No. 408 OF 2013**

**ORDER:** (per Hon'ble Sri Justice A.V.Sesha Sai)

This Writ Appeal, preferred under Clause 15 of the Letter Patent, calls in question the order dated 18.12.2012 passed by the learned Single Judge, allowing W.P.No.4274 of 2009 filed by respondent Nos.1 and 2 herein.

2. Shorn of inappropriate details, the background, leading to the filing of the present Letter Patent Appeal is as follows:

2.1).One Sri Polakala Kuppuswamy (deceased appellant No.1) filed an application before the Settlement Officer, Nellore (5<sup>th</sup> respondent herein), under Section 11(a) of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948, claiming ryotwari patta for an extent of Ac.12.50 cents in Paimash No.394 and R.S.No.33 of Mangalam Village, Tirupati Urban Mandal, Chittoor District. The Settlement Officer, Nellore vide order bearing S.R.No.6/11(a)/86/CTR, dated 12.06.1986, granted

ryotwari patta in favour of Sri P.Kuppuswamy for the above said land.

2.2).Assailing the validity of the said order dated 12.06.1986, the District Collector, Chitoor, filed a revision petition under Section 5(2) of the Estates Abolition Act, 1948 before the Commissioner & Director of Settlements, Andhra Pradesh, Hyderabad (respondent No.4) and since the original pattadar died, his legal representatives were brought on record. The Commissioner & Director of Settlements, vide order in R.P.No.73/87(BI), dated 20.09.2006, dismissed the said revision, holding that the Settlement Officer was not wrong in granting patta to Kuppuswamy.

2.3).Thereafter, the Mandal Revenue Officer, Tirupati Urban, filed a revision before the Commissioner of Appeals (3<sup>rd</sup> respondent herein) against the order passed by the Commissioner & Director of Settlements, dated 20.09.2006. The Commissioner of Appeals, vide order dated 06.12.2008, dismissed the said revision.

2.4).Questioning the aforesaid orders of the Settlement Officer, dated 12.06.1986 as confirmed by the Commissioner & Director of Settlements and Commissioner of Appeals vide orders, dated 20.09.2006 and 06.12.2008, respondent Nos.1 and 2 herein approached this Court by filing W.P.No.4274 of 2009 under Article 226 of the Constitution of India. Learned Single Judge of the Composite High Court of Andhra Pradesh, by way of an order dated 18.12.2012, allowed the writ petition and remanded the matter to the Settlement Officer.

3. In the above background, questioning the validity and the legal sustainability of the said order, passed by the learned Single Judge, the present Letter Patent Appeal came to be preferred. The Division Bench of the Composite High Court, admitted the present writ appeal and in W.A.M.P.No.1003 of 2013, granted an order of *status quo*.

4. Heard Sri D.V.Seetharama Murthy, learned Senior Counsel representing Sri Khadar Mohiddin, learned counsel for the appellants on record and Sri P.Bala Swamy, learned Government Pleader, appearing for respondent Nos.1 and 2 apart from perusing the material available on record.

5. Sri D.V.Seetharama Murthy, learned Senior Counsel, contends that the order passed by the learned Single Judge is highly erroneous and contrary to law; that since three authorities concurrently found in favour of the writ appellants, the learned Single Judge grossly erred in disturbing the finding of fact recorded in the absence of any jurisdictional error or patent perversity; that all the authorities afforded ample opportunity to the department to produce pre-abolition records; that all the three authorities, on the basis of the oral and documentary evidence produced by the claimants, unanimously declared and found the subject land to be a ryothy land; that the learned Single Judge grossly erred in placing reliance on the order in W.P.No.17645 of 2005 dated 10.11.2005, as the appellants herein were not parties to the said writ petition; that the learned Single Judge erred in placing reliance on the report of the Executive Officer, Panchayat Raj, Tirupati dated 02.11.2006 in view of the finding of the Commissioner of Appeals that the said report would not disclose the survey number in which the tank is located; that the learned Single Judge ought to have seen that the contention of the writ petitioner that at present the land is not cultivable and is covered by shrubs and bushes as such patta cannot be granted is untenable and same is contrary to the law laid down by the Hon'ble Apex Court; that the

village map of Mangalam Village clearly shows that there is no tank in survey No.33 and the same exists in survey No.176; that the master plan of Tirupati Urban Development Authority Region as affirmed by State Government, vide G.O.Ms.No.112 M.A. & UD Department, dated 08.03.2019 also shows the same. It is further contended by the learned Senior Counsel that in the absence of any records produced by the Department pertaining to pre-abolition period, the learned Single Judge grossly erred in interfering with the findings of fact recorded by the quasi-judicial authorities.

6. In support of his submissions and contentions, learned Senior Counsel places reliance on the following judgments:

- i).AIR 1963 SC 1895
- ii).AIR 1958 SC 398
- iii).AIR 1964 SC 477
- iv).2015(16) SCC 689
- v).2005 (3) ALD 113 (FB)
- vi).AIR 1965 SC 388
- vii).2022 (2) ALD 234 (AP).

7. Per contra, learned Government Pleader, while empathetically and strongly supporting the order of the learned Single Judge, contends that there is absolutely no infirmity nor there exists any

error in the order passed by the learned Single Judge as such the impugned order warrants no interference of this Court under Clause 15 of Letter Patent. It is further contended that in view of the absence of proper opportunity given by the quasi-judicial authorities, the learned Single Judge is justified in remanding the matter to the primary authority i.e., the Settlement Officer with a direction to consider the issue afresh after affording opportunity to the Department as such the order of the learned Single Judge cannot be faulted. It is also further submitted that the learned Single Judge did not substitute his opinion for the findings of fact recorded by the quasi-judicial authorities and only found fault with the jurisdictional errors committed. It is also submitted further by the learned Government Pleader that the order passed by the learned Single Judge would not cause any prejudice to the appellants herein since the learned Single Judge only remanded the matter for fresh consideration of the issue and it is open for the appellants to participate in the enquiry. It is also the further submission of the learned counsel that there is abnormal delay in filing the application by the claimants and the same would disentitle the writ appellants from claiming any right over the property. It is further submitted that on the ground of abnormal delay in filing application for grant of

patta, the Settlement Officer should have rejected the claim. Learned Government Pleader relies on the judgment of Composite High Court of A.P. in W.P.No.17645 of 2005 dated 10.11.2005.

8. In the light of the above pleadings and contentions, now the issues that emerge for consideration and adjudication by this Court are as follows:

1. Whether the orders, passed by the learned Single Judge, having regard to the facts and circumstances of the case are sustainable and tenable ?
2. Whether the learned Single Judge is justified in remanding the matter to the Primary Authority for fresh consideration ?
3. Whether the Appellants herein are entitled for any relief in the present writ appeal, filed under Clause 15 of the Letter Patent ?

9. This Court, having regard to the nature of the controversy, deems it appropriate to consider all the above three issues together.

10. The information available before this Court shows that one late Sri Polakala Kuppuswamy, S/o.Bojjaiah @ Narasimhulu, who claimed the subject land as his ancestral property under Saswatha Patta Takids dated 09.08.1942 and 11.06.1942 from the land holders, filed an application under Section 11(a) of the Estates Abolition Act, 1948,

claiming Ryothwari Patta. The Tahsildar, Tirupati (Urban) resisted the said application by filing a counter and the Tahsildar took a stand that the subject land situated in Survey No.33 of Mangalam Village is classified as tank poramboke (Chennaiah gunta Cheruvu lokattu) and it is exclusively used as such and that in view of the provisions of Section 3(16)(b) of the Estates Abolition Act, 1945 and in view of the prohibition contained therein, no patta can be granted and the Settlement Officer has no jurisdiction to grant ryothwari patta and that the applicants never cultivated the land as he was away due to employment. The said counter denied the pattas dated 11.07.1942 and 19.08.1942 as fabricated. During the course of enquiry before the primary authority i.e., Settlement Officer, the claimant Polakala Kuppaswamy, apart from examining himself as P.W.1 also examined Ex.Village Karanam of Settipally, Sri Kalahasti Govindaswamy as P.W.2 and the Inamdar, Sri K.K.Bangaru Buchi Venkatacharyulu as P.W.3 and the claimant also filed Exs.P.1 and P.2 Pattas dated 11.07.1942 and 19.08.1942 and Ex.P.3, land revenue receipts. The claimant examined P.Ws.2 and 3 to prove his possession and right over the property. In fact P.W.2, Ex.Village Karanam, who worked as such for Settipally Village during the period 1942-1980, categorically deposed about the grant of pattas by transfer in favour of parents of P.W.1 and about the

continuous and uninterrupted possession of the family of P.W.1 and he also had spoken about the nature of land as Ryothi and he also stated that the subject land is not a tank poramboku land and is not used for communal purpose. P.W.3, Inamdhar, also clearly stated about grant of Exs.P.1 and P.2 pattas and their genuinity and also admitted his signatures on Exs.P.1 to P.3.

11. It is very much obvious from a reading of the order of the Settlement Officer that except filing a counter, no documentary evidence was placed on record by the Mandal Revenue Officer to substantiate the plea of the Department and despite granting sufficient time of three years and inspite of a number of reminders, the Department did not produce any documents and no pre-abolition records were produced nor produced Revenue Recovery statement. After extensively and elaborately analyzing and considering the entire material available on record and while referring to the law laid down by the Hon'ble Supreme Court reported in AIR 1965 SC 336B, the Settlement Officer, Primary Authority, passed orders on 12.06.1986, granting ryotwari patta in favour of Sri P.Kuppuswamy.

12. Coming to the orders passed by the Commissioner & Director of Settlements dated 02.09.2006, the Department did not choose to

place on record any documents to substantiate their plea. On the other hand, the following documents came to be filed by the appellants herein before the said revisional authority:

- i). Enjoyment certificate issued by the Tahsildhar, Chandragiri in Roc.No.C2/1274/71, dt.27.12.1971.
- ii). Certified copy of Dittam for the years from 1945 to 1958 of Mangalam Village.
- iii). Certified copy of No.2 Adangal for F.1371 to 1379.
- iv). Certified copy of fair Adangal for F.1388 to 1389.
- v). Two land revenue receipts dt.11.04.1982 and 02.12.1983.
- vi). Sec.7 notice issued by the Tahsildhar on 10.05.1980.

13. The Commissioner & Director of Settlements, after meticulously considering the material available on record including Dittam produced by the claimants for the period 1945 to 1958, came to the conclusion against the Department and dismissed the revision.

14. The Commissioner of Appeals also passed an elaborate order, confirming the view expressed by the Primary and Revisional Authority and also took into consideration the Dittam produced by the claimants and though a Topo Sketch was sought to be pressed into service by the Mandal Revenue Officer, the Commissioner of Appeals found that there was no survey number indicated therein and also considered the report

of the Executive Engineer, Panchayat Raj, Tirupati dated 02.11.2006. The Commissioner of Appeals also took into consideration the combined Topo Sketch, wherein the Tank was noted in R.S.No.176 but not in R.S.No.33.

15. In this context, it may be appropriate to refer to the judgments cited by the learned Senior Counsel appearing for the petitioners.

16. In the case of *Syed Yakoob v. K.S.Radhakrishnan*<sup>1</sup>, the Hon'ble Apex Court, while dealing with the jurisdiction of the High Courts in issuing writs in the nature of writ of certiorari, at Paragraph No.7 held as under:

*The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Article 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals; these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or in excess of it, or as a result of failure to exercise jurisdictions. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity*

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<sup>1</sup> AIR 1964 SC 477

*to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as a result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was 'insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive*

*jurisdiction of the Tribunal, and the said points cannot be agitated before a writ court. It is within these limits that the jurisdiction conferred on the High Courts under Article 226 to issue a writ of certiorari can be legitimately exercised (vide Hari Vishnu Kamath v. Syed Ahmed Ishaque(1), Nagendra Nath Bora v. The Commissioner of Hills Division and Appeals, Assam(2), and Kaushalya Devi v. Bachittar Singh(3).*

17. In the case of ***Nagendra Nath Bora v. Commissioner of Hills Division and Appeals, Assam***<sup>2</sup>, the Hon'ble Apex Court at Paragraph Nos.24 and 25 held thus:

*24.It is clear from an examination of the authorities of this Court as also of the courts in England, that one of the grounds on which the jurisdiction of the High Court on certiorari may be invoked, is an error of law apparent on the face of the record and not every error either of law or fact, which can be corrected by a superior court, in exercise of its statutory powers as a court of appeal or revision.*

*25. So far as we know, it has never been contended before this Court that an error of fact, even though apparent on the face of the record, could be a ground for interference by the court exercising its writ jurisdiction. No ruling was brought to our notice in support, of the proposition that*

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<sup>2</sup> AIR 1958 SC 398

*the court exercising its powers under Art. 226 of the Constitution, could quash an order of an inferior tribunal, on the ground of a mistake of fact apparent on the face of the record.*

18. In the case of ***Nibaran Chandra Bag v. Mahendra Nath Ghughu (deceased)***<sup>3</sup>, the Hon'ble Apex Court at Paragraph Nos.12 and 17 held thus:

*12. Before proceeding further it is necessary to notice that the matter was brought up before the High Court by Petition under Art. 227 of the Constitution. The jurisdiction conferred by that Article is not by any means appellate in its nature for correcting errors in the decisions of Subordinate Courts or Tribunals but is merely a power of superintendence to be used to keep them within the bounds of their authority, vide nagendra Nath Bora v. Commissioner, Hills Division, Assam (1). It was the submission of the learned counsel for the respondent (Appellant in C.A. 105/60) that the High Court exceed-ed its jurisdiction in interfering what at the worst was a mere error in the appreciation of evidence and that in fact there was enough material for the finding which the Revenue Tribunals had reached, as regards the lease.*

*17. Even assuming that the Revenue Tribunals erred in their interpretation of the compromise, it could not be a*

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<sup>3</sup> AIR 1963 SC 1895

*ground on which their finding could be set aside under Art. 227, in view of the fact that the compromise was but one of the several items of evidence on which the finding was based. If thus there was material, the order could not be characterised as perverse to permit of interference. We, therefore, consider that there was no justification to interfere with this concurrent finding of the revenue Tribunal.*

19. In the case of ***Municipal Corporation, Aurangabad v. State of Maharashtra***<sup>4</sup>, the Hon'ble Apex Court at Paragraph No.14 held thus:

*14. In the present case, we find that a disputed question of fact was raised by the parties with regard to the title over the land in question. The appellant Corporation on the one hand based its claim of title on payment of amount by depositing it in the court and possession of the land taken pursuant to the agreement reached between the appellant Corporation and the father of Respondent 2. On the other hand, the case of the second respondent is that the amount was not deposited by the appellant Corporation with regard to the land in question. In view of the fact that there is a disputed question of fact, we are of the view that it was not a fit case for the High Court to decide the question of mutation doubting the title in a petition under Article 226 of the Constitution*

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<sup>4</sup> (2015) 16 SCC 689

*and thereby reversing the concurrent findings of fact by the competent authorities.*

20. In the case of **Athamanathswami Devasthanam v. K.Gopalaswamy Ayyangar**<sup>5</sup>, the Hon'ble Apex Court at Para No.5 held thus:

*5.The lands in suit, according to the plaint, were uncultivable waste lands covered with shrubs, jungle and the like. They had not been cultivated for a long time. Waste lands covered with shrubs, jungle and the like cannot be held to be uncultivable merely on that account or on account of their being not cultivated for a long time. Land which can be brought under cultivation is cultivable land unless some provision of -law provides for holding it otherwise in certain circumstances. This is not disputed for the appellant, but what is urged on its behalf, is that land will not be cultivable land if it can be brought under cultivation only after incurring great expenditure. It is said that according to the respondent, about Rs.3,00,000/- were spent in reclaiming the land. Except for the statement of the respondent, there is no evidence worth considering about the actual expenditure incurred by the respondent in reclaiming the land in suit which is over 700 acres in area. Reference was also made to an observation in the judgment of the High Court to the effect :*

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<sup>5</sup> AIR 1965 SC 338

*"Of course, there are some lands in an estate which are not cultivable at all like hill tops, permanently submerged lands, etc., and they will be incapable of being claimed as ryoti lands with occupancy rights by lessees for grazing, fishing etc."*

*This observation seems to be a general observation and not in connection with the land in suit. The land in suit was sought to be brought under cultivation in connection with the Grow More Food Campaign and this must have been as the land in suit could be brought under cultivation without any undue expenditure of money and labour. The expenditure on reclaiming the land might have been more than the usual expenses in view of the fact that most of the labour had to be imported from outside and as tractors had to be used on account of the large size of the land to be reclaimed within as short a time as possible. It is not even shown that the reclamation of land has not been profitable financially. We are therefore of the opinion that the Courts below have rightly held the land in suit to be cultivable land.*

21. In the case of **Sarvepalli Ramaiah v. K.Srinath Reddy**<sup>6</sup>, the Hon'ble Apex Court at paragraph No.24 held thus:

*24. In this case the same party who filed SLP had approached in review to the High Court. It was not a case where a party before the Court was not a party to the earlier proceedings*

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<sup>6</sup> 2005 (3) ALD 113 (FB)

*who was decidedly and definitely affected by the order of the Court. The judgment of the Constitution Bench of the Supreme Court referred to hereinabove was passed almost in similar circumstances. Even otherwise the dismissal of the SLP in limine by the Supreme Court does not preclude entertaining of a review as has been laid down by the Supreme Court in Indian Oil Corporation Ltd. v. State of Bihar, . Similarly in V.M. Salgaocar and Bros. Pvt. Ltd. v. Commissioner of Income Tax, the Supreme Court held that the dismissal of SLP was not equivalent to the dismissal of an appeal. Since the rights of the parties other than the legal heirs of late K.R. Krishna Reddy were affected by the judgment of this Court in W.P.No. 21859 of 1996, therefore we have no doubt in our mind that this judgment cannot operate against their interests.*

22. In the case of ***L.Ramesh v. State of Andhra Pradesh***<sup>7</sup>, this Court at Paragraph No.57 held thus:

*57. The 2nd ground urged by the respondents is that the subject land is a submergible land (Neeti Mumpu). At best, the land is subject to ‘inundation’ during rainy season, but that cannot be said to be a ‘tank bed’ or ‘tank poramboke’”. As admitted by the 2008 (6) ALD 788 (DB) MSM, J wp\_8883\_2020 respondents, it is only submergible land and it is a private zeroyati land as per fair adangal. Therefore, it is a private land. Though it is a submergible*

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<sup>7</sup> 2022 (2) ALD 234 (AP)

*land, it cannot be treated as „government land“ and it will not vest on the government consequent upon the abolition of estates more particularly, when patta was granted in favour of the original landholders. Even otherwise, the Principal Secretary to the Government discussed about this issue in the order dated 25.04.2016 in paragraph No.6 in detail and recorded that it was only submergible land. It is recorded as ‘private patta land’ in the fair adangal, but in the remarks column, it is mentioned as “submergible land” and not part of karakambadi tank. The Principal Secretary to the Government dealt with the matter in detail and recorded a finding that the subject land is a patta land, but not a river poramboke or tank proamboke by placing reliance on the judgment of the High Court of Andhra Pradesh at Hyderabad "Pydah Chalmaiah v. The Board of Revenue, Andhra Pradesh" (referred above), wherein it is held that the payment of cist and acceptance thereof by the Government was a positive indication that the owner of the land was determined to retain his possession notwithstanding submersion of the land. In the same judgment, it was clarified that once right or title to the particular land is established, even in course of time by flow of water the land gets eroded, the title to the land does not pass from the private person to the Government and patta land does not become Government land or river proamboke.*

23. It is absolutely not in controversy that three quasi-judicial authorities concurrently found in favour of the claimant and confirmed the grant of ryotwari patta. The material available on record also, in clear and unequivocal terms, demonstrates that by adducing oral and documentary evidence the claimant could prove his possession, enjoyment and right over the subject property. On the other hand, despite sufficient and complete opportunity afforded, the Department failed in availing the same and failed in producing any records to substantiate their stand and failed to show the nature of the property as per their pleadings. A reading of the orders passed by the quasi judicial authorities impugned in the writ petition demonstrate the same. The findings of the learned Single Judge that the respondents quasi judicial authorities, failed to record the nature of the scheduled property, in the considered opinion of this Court runs contrary to the material available on record including the orders impugned in the writ petition. Having failed to adduce any cogent and convincing evidence despite sufficient opportunity afforded by the quasi judicial authorities, it is not open for the writ petitioners to contend that the quasi judicial authorities failed to give opportunity to them. As per the Constitutional Bench Judgments of the Hon'ble Apex Court cited by the learned Senior Counsel for the appellants and

which are referred to above, unless the orders impugned in the writ petition suffer from jurisdictional error or patent perversity and unless there is a violation of principles of natural justice, a writ in the nature of writ of certiorari cannot be issued. In the considered opinion of this Court, the said contingencies are conspicuously absent in the orders impugned in the writ petition. In the definite opinion of this Court, the Department cannot attack the orders impugned in the writ petition by pressing into service the judgment of the learned Single Judge of the composite High Court in W.P.No.17645 of 2005 in the teeth of the law laid down by the Full Bench of the Composite High Court in **Sarvepalli Ramaiah** (referred to supra) and fact remains that the appellants herein are not parties to the said litigation wherein possession alone was the issue.

24. The aspect of delay in approaching the primary authority by the claimants, in the considered opinion of this Court, cannot be permitted to be raised by the Department as the Settlement Officer already condoned the delay and in the absence of any appeal filed by the respondent Nos.1 and 2 against the orders of the learned Single Judge.

25. In the facts and circumstances narrated supra, this Court has absolutely no hesitation nor any traces of doubt to hold that the order

passed by the learned Single Judge, which is impugned in the present appeal cannot stand.

26. For the aforesaid reasons, the Writ Appeal is allowed, setting aside the order dated 18.12.2012 passed by the learned Single Judge in W.P.No.4274 of 2009. There shall be no order as to costs.

Miscellaneous petitions pending if any, shall stand closed.

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A.V. SESA SAI, J

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VUTUKURU SRINIVAS, J

Date: 25.08.2022  
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