



**IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI**

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**W.P.No.2762 of 2015**

Between

Kancham Raja Gopal Reddy, S/o late Hanumanth  
Reddy, aged about 60 years, Occ: Agriculture,  
R/o Kommalur village, Khajipet Mandal,  
Y.S.R. District

... Petitioner

Vs.

The State of Andhra Pradesh,  
Represented by its Secretary,  
Revenue Department,  
Secretariat Buildings, Hyderabad and 5 others

... Respondents

**DATE OF JUDGMENT PRONOUNCED: 21.11.2022**

**HON'BLE SMT JUSTICE V.SUJATHA**

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reports/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No



**\* HON'BLE SMT JUSTICE V.SUJATHA**

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R/o Kommalur village, Khajipet Mandal,  
Y.S.R. District

... Petitioner

Vs.

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Represented by its Secretary,  
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... Respondents

! Counsel for the petitioner : Sri V.R. Reddy Kovvuri

^Counsel for respondent No.1 to 4 : G.P. for Revenue

^^Counsel for respondent Nos.5 and 5: Sri Syed Azimathullah

< Gist:

➤ Head Note:

? CASES REFERRED:

1) 2013 (1) ALD 405

2) 2013 (6) ALD 678

**HONOURABLE SMT. JUSTICE V. SUJATHA****Writ Petition No.2762 of 2015****ORDER:**

The writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

*“to issue a Writ or Order more in the nature of Mandamus declaring the orders in R. Dis.(E2)/1502/2011, dated 27.12.2014 passed by the 2<sup>nd</sup> respondent declaring the land in an extent of Ac.1.00 cents in Survey No.45/1, Ac.0.22 cents in Survey No.47/2, and Ac.0.30 cents in Survey No.47/3 of Kommalur village fields, Khajipet Mandal, Y.S.R. District as Government land and also unregistered sale transaction is not valid in so far as the land in an extent of Ac.0.69 cents in Survey No.48/2, Ac.0.84 cents in Survey No.48/3 of Kommalur village fields, Khajipet Mandal, Y.S.R. District and also recording for cancellation of Pattadar Pass Book and Title Deeds granted in favour of the petitioner for the lands in an extent of Ac.1.00 cents in Survey No.45/1, Ac.0.22 cents in Survey No.47/2, Ac.0.30 cents in Survey No.47/3, Ac.0.69 cents in Survey No.48/2 and ac.0.84 cents in Survey No.48/3 of Kommalur village fields, Khajipet Mandal, Y.S.R. District as arbitrary, illegal and contrary to the procedure envisaged under the provisions of A.P. Rights in Land and Pattadar Pass Books Acts, 1971 and the A.P. Rights in Land and Pattadar Pass Books Rules, 1989.”*

The case of the petitioners, in brief, is that he is absolute owner and possessor of the land an extent of Ac.1.00 cents in Survey No.45/1, Ac.0.22 cents in Survey



No.47/2, Ac.0.30 cents in Survey No.47/3, Ac.0.69 cents in Survey No.48/2 and Ac.0.84 cents in Survey No.48/3 of Kommalur village fields, Khajipet Mandal, Y.S.R. District, having purchased the same under an unregistered sale deed dated 18.03.1995 on payment of total sale consideration from one Gurrampati Gangamma, and Gurrampati Bala Pedda Venkata Subba Reddy. Basing on the unregistered sale deed dated 18.03.1985, the name of the petitioner was mutated in the revenue records and was issued pattadar pass book and title deeds after following the due procedure as contemplated under Section 5 (3) of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 and the A.P. Rights in Land and Pattadar Pass Books Rules, 1989 as long back as in the year 1990. As there was no appeal filed against the issuance of pattadar pass books and title deeds, the entries made in favour of the petitioner attained finality. While so, the respondents 5 and 6, who are claiming right over the subject lands, submitted a representation to the respondents 3 and 4 seeking cancellation of pattadar pass books and title deeds granted



in favour of the petitioner. Pursuant thereto, the respondents 3 and 4 submitted a report to the 2<sup>nd</sup> respondent stating that the land in an extent of Ac.1.00 cents in Survey No.45/1, Ac.0.22 cents in Survey No.47/2 and Ac.0.30 cents in Survey No.47/3 is Government land as there are dots in RSR against the pattadar column, while in respect of the land an extent of Ac.0.69 cents in Survey No.48/2, Ac.0.84 cents in Survey No.48/3, there was an unregistered sale deed and that the pattadar pass books and title deeds granted in favour of the petitioner is liable to be cancelled. Basing the said report, the 2<sup>nd</sup> respondent, after initiating *suo motu* revisional proceedings as contemplated under Section 9 of the Act, 1971 passed orders cancelling the pattadar pass books and title deeds, vide proceedings R.Dis. (E2)/1502/2011, dated 27.12.2014. Challenging the same, the present writ petition is filed.

This court, on 11.02.2015, while ordering notice before admission, granted interim stay of further proceedings in pursuance of the orders passed in



R.Dis.(E2)/1502/ 2011 dated 27.12.2014 by the 2<sup>nd</sup> respondent, pending disposal of the writ petition.

The 2<sup>nd</sup> respondent-Joint Collector filed his counter, contending, *inter alia*, that the lands in Survey No.45 and 47 were classified as Government lands i.e. A.W. as per RSR of Kommalur village, Khajipet Mandal, as it was noted as dotted in the column of pattadar, while the remaining land in Survey No.48 is ryotwari patta land standing in the name of one Siddhavatam Yammanuru Subbanarasayya and Chitambarayya as per the column No.16 of RSR of Kommaluru village, Khajipet Mandal. The 2<sup>nd</sup> respondent stated that items 1 and 2 of the entries were classified as Government lands and item No.3 was a ryotwari patta land as per RSR for which registration is compulsory for transfer of rights. As per Rule 9 (ii) of the A.P. Rights in Land and Pattadar Pass Books Rules, 1989, unregistered documents are not admissible as evidence in the enquiry to prove the ownership or title of the property. The 2<sup>nd</sup> respondent further stated that as per the provisions of A.P. Rights in Land and Pattadar Pass Books Act, 1971 and the



Rules 1989, there shall be a revision before the Collector/ Joint Collector under Rule 23 (1) against an order of the Appellate Authority.

Respondents 5 and 6 filed their counter, while denying the averments made in the writ petition, contended that they made a representation to the District Collector for taking necessary action for cancellation of pattadar pass books and title deeds issued in favour of the petitioner in respect of subject lands as the said lands are in their possession and enjoyment. Pursuant to the said representation, the District Collector ordered enquiry and accordingly, the 4<sup>th</sup> respondent conducted an enquiry and submitted his report on 13.11.2010 basing on which the Revenue Divisional Officer, by his proceedings dated 18.12.2010, recommended the District Collector for cancellation of pass books and accordingly, the 2<sup>nd</sup> respondent vide proceedings R.Dis.(E2)/1502/2011, dated 27.12.2014 cancelled the entries made in PPB/ TD.No.86370 by directing the 4<sup>th</sup> respondent to incorporate necessary changes in revenue records. The petitioner by



suppressing all the material facts approached this court seeking the relief as prayed for. Hence, the writ petition is liable to be dismissed.

Heard Sri V.R. Reddy Kovvuri, learned counsel for the petitioner, the learned Government Pleader for Revenue and Sri Syed Azimathullah, learned counsel appearing for the respondents 5 and 6.

A perusal of the document would show that the petitioner purchased the land as claimed in the year 1985. Though the petitioner purchased the lands by way of unregistered sale deeds, the 4<sup>th</sup> respondent, after duly considering the document, granted pattadar pass book and title deeds in favour of the petitioner and also mutated his name in the revenue records. However, after lapse of more than 25 years, basing on the representation made by the respondents 5 and 6, the 2<sup>nd</sup> respondent passed the orders cancelling the pattadar pass books. The operative portion of the said proceedings reads as follows:

*“the entries in the PPD/TD No.86370 of the respondent herein for the aforesaid lands are hereby cancelled under Section 9 of the A.P.*





*Rights in Land and Pattadar Pass Books act, 1971. The Tahsildar, Khajipet is hereby directed to incorporate necessary changes in 1B register of Kommalur village, also in PPD/TD of Sri K. Rajagopal Reddy and also in village Account No.2 of Kommalur village of Khajipet Mandal.”*

In the above back ground, now the points that arise for consideration are,--

- 1) Whether the 2<sup>nd</sup> respondent can pass orders directing to cancel the pattadar pass book simply on a representation made by rival parties?**
- 2) Whether on an application made after a lapse of 25 years, the entries made in the revenue records can be cancelled or not?**
- 3) Whether the dotted lands can be treated as Government lands or not?**

Before dealing with the case on hand, it would be appropriate to refer to Section 9 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971, which reads as under:

**Revision.** - *The Collector may either suo motu or on an application made to him, call for and examine the record of any Recording Authority, Mandal Revenue Officer or Revenue Divisional Officer under Sections 3, 5, 5A or 5B, in respect of any record of rights prepared or maintained to*



*satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or reversed or remitted for reconsideration, he may pass orders accordingly:*

*Provided that no such order adversely affecting any person shall be passed under this Section unless he had an opportunity of making a representation.”*

A perusal of the above provision makes it clear that any decision taken or any record prepared by the recording authority, the Mandal Revenue Officer or the Revenue Divisional Officer, either under Section 3, 5, 5A or 5B of the Act can be examined by the revisional authority, either on *suo motu* or on an application made to him, to satisfy itself of the correctness, legality, regularity and propriety of such decision or order.

A thorough perusal of the proceedings dated 27.12.2014, which is challenged herein, would show that the 2<sup>nd</sup> respondent-Joint Collector passed orders cancelling the entries made in the pattadar pass book and title deed No.86370 invoking the provisions of Section 9 of the Act by directing the Tahsildar, Khaijpet to incorporate necessary



changes in 1B register. Being the revisional authority, for invoking his powers under Section 9 of the Act, there must have been an order passed by his subordinate authorities under Sections 3, 5A or 5B of the Act. Admittedly, there was no such order in the case on hand. It appears that on a representation made by the respondents 5 and 6, the Revenue Divisional Officer submitted his report for cancellation of pattadar pass books and title deeds in respect of the subject lands to the 2<sup>nd</sup> respondent, without there being any decision or order thereon as contemplated under the Act. It is no doubt true that *suo motu* powers can be initiated by the revisional authority under Section 9 of the Act only when the interests of the State are involved on the subject property as laid down in **Kalavakuri Mallikarjuna Rao and others v. Government of Andhra Pradesh and others**<sup>1</sup>. However, it is nowhere stated herein that the interest of the State are involved in the subject property, in as much as the dispute is between two private individuals, in which event it must be left open to them to

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<sup>1</sup> 2013 (1) ALD 405



prosecute their remedies in accordance with law. As such, the impugned proceedings passed by the 2<sup>nd</sup> respondent cancelling the pattadar pass books and title deeds is not proper and without jurisdiction and hence, the same is liable to be set aside. Point No.1 is answered accordingly.

**Point No.2:**

On perusal of the material record, it appears that after lapse of nearly 25 years, respondents 5 and 6 made a representation to respondents 3 and 4 seeking cancellation of pattadar pass books issued in favour of the petitioner for the subject lands, pursuant to which, the respondents 3 and 4 submitted reports to the 2<sup>nd</sup> respondent proposing for cancellation of pattas.

It is to be noted here that as per Section 4 of the Act, if any person acquiring land by succession, survivorship, inheritance and right as occupant of land by any other method shall intimate in writing his acquisition of such right, to the Mandal Revenue Officer within thirty days from the date of such acquisition. On receipt of such



intimation, as per Section 5 of the Act, the Mandal Revenue Officer shall determine the same and carryout necessary amendment in the record of rights. However, before passing such order, the Mandal Revenue Officer shall issue a notice in writing to all persons whose names are entered in the record or rights and who are interested in or affected by the amendment. However, against every order of the Mandal Revenue Officer passed under sub-section (1) or (2) of Section 5, as per sub-section (5) of Section 5, an appeal shall lie to the Revenue Divisional Officer or such authority, within a period of sixty days from the date of communication of the said order. Here, no such procedure was followed as contemplated under Section 5 of the Act. However, it is a settled principle that *suo motu* exercise of powers passing an order of cancellation of pattadar passbook and title deeds without there being an application to condone the delay is without jurisdiction and deserves to be set aside.

Admittedly, in the case on hand, a representation was made nearly after lapse of 25 years that too without



there being any application for condoning the delay. As seen from the record, in pursuance of the report submitted by the respondents 3 and 4, based on the representation of the respondents 5 and 6, the 2<sup>nd</sup> respondent passed orders cancelling the pattadar pass books and title deeds without there being any decision taken by his subordinate authorities on the said representation, which is not sustainable in law.

In support of his contention, learned counsel for the petitioner relied upon a decision reported in **Basireddy Rkuminamma v. Joint Collector, Kadapa and others**<sup>2</sup>, wherein it is held as follows:

*“.....There is a serious dispute as to the date on which the pattadar pass book and title deed were issued in favour of the petitioner. In the written argument filed before the respondent No.1, the petitioner specifically stated that the pattadar pass book and title deed were issued in her favour on 13.10.2001. No explanation whatsoever was offered by respondent No.4 for not filing an appeal under Section 5 (5) of the Act for cancellation of the entries, pattadar pass book and title deed issued in favour of the petitioner. On the contrary, the entries in the record of rights and pattadar pass book and title deed were allowed to be in existence till*

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<sup>2</sup> 2013 (6) ALD 678



*2009 when for the first time, respondent No.4 has approached respondent No.1 by availing the remedy of a revision without filing an appeal under Section 5 (5) of the Act. Respondent No.4 has failed to explain as to why he has straight away approached respondent No.1 by way of a revision when a remedy of appeal under Section 5 (5) of the act is available to him.*

*Ordinarily, when the statute provides for a particular procedure, the party is expected to follow the said procedure strictly and scrupulously. Instead of filing an appeal before the respondent No.2, the respondent No.4 has filed the revision before respondent No.1. This procedure itself in my opinion is unusual and contrary to the statutory scheme.....”*

Further, it would be appropriate to refer to Section 8 (2) of the A.P. Rights in Land and Pattadar Pass Books Act, 1971, which reads as follows:

*“8. Bar of Suits. - (1) No suit shall lie against the Government or any officer of Government in respect of a claim to have an entry made or in relation to any entry made in any record of rights or to have any such entry omitted or amended.*

*(2) If any person is aggrieved as to any rights of which he is in possession by an entry made in any record of rights he may institute a suit against any person denying or interested to deny his title to such right for declaration of his right under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963) and the entry in the record of rights shall be amended in accordance with any such declaration.”*



A reading of Section 8 of the Act referred to supra, makes it clear that if any person aggrieved as to any rights which he is in possession by an entry made in any record of rights he may institute a suit against the person denying or interested to deny his title to such right, for declaration of his right. When a particular procedure is prescribed under the statute, the party is supposed to follow the said procedure strictly and scrupulously. However, in the case on hand, if the respondents 5 and 6 are aggrieved as to the rights which they are in possession by an entry made in the record of rights, they may institute a civil suit seeking declaration of their rights. But, instead of invoking such procedure, the respondents 5 and 6 straight away made an application seeking cancellation of the entries in the revenue record, which is not proper and is contrary to the provisions of the Act. It is suffice to say that having regard to the nature of the dispute raised by the respondents 5 and 6 as it involves dispute relating to title, undoubtedly, the 2<sup>nd</sup> respondent is not competent to decide the same





without there being any order of his subordinate authority and he ought to have rejected the representation. Instead of following such procedure, the 2<sup>nd</sup> respondent proceeded further and set aside the pattadar pass book and title deed issued in favour of the petitioner after lapse of 25 years, which is illegal, arbitrary and without jurisdiction. Hence, the proceedings issued by the 2<sup>nd</sup> respondent cancelling the entries made in the revenue record are liable to be set aside. The point No.2 is answered accordingly.

Coming to the issue whether the dotted lands are treated as Government lands or not, it is to be noted that mere showing dotted in the column of pattadar cannot be a ground to treat the same as Government land unless it is specifically classified. It may be lack of proper information about the pattadar, which cannot be a ground to treat the land as Government land. In the absence of any proper reasoning for treating the dotted lands as Government land, the finding that the dotted land is a Government land deserves to be interfered with.



In view of the above facts and circumstances, the orders passed by the 2<sup>nd</sup> respondent vide R.Dis.(E2)/1502/2011, dated 27.12.2014 cancelling the pattas granted in favour of the petitioner are liable to be set aside.

In the result, the writ petition is allowed and the proceedings in R. Dis. (E2)/1502/2011, dated 27.12.2014 issued by the 2<sup>nd</sup> respondent are set aside, leaving it open to the respondents 5 and 6 to approach the competent Civil Court if they aggrieved with any rights of which they are in possession by an entry made in any record of rights. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

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**V. SUJATHA, J**

Date: 21.11.2022

Note: L.R. copy to be marked.

B.O./Ksn