HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT

W.P.No13096 OF 1998

ORDER:*(Per Hon'ble Sri Justice S.V.Bhatt)*

Heard Mr. P.Suresh, the learned counsel for petitioner, Mr.E.Madan Mohan Rao, the learned counsel for respondents 1 to 4 and the learned Government Pleader for respondents 5 to 7.

In **N. Bal Reddy v. Revenue Divisional Officer, Hyderabad East[1],** a learned Single Judge has taken the view that against the issuance of Pattadar Passbooks (PPB)/Title Deeds (TD) under Section 6-A of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'), an appeal under Section 5(5) of the Act is maintainable before the Revenue Divisional Officer.

Through the reference order dated 25.06.2007, the correctness of view taken in **N.Bal Reddy'**s case (1 supra) is doubted by another learned Judge and the writ petition is referred to a Division Bench for decision on the maintainability of appeal under Section 5(5) of the Act against order under Section 6-A of the Act.

The order of reference reads thus:

> "The law settled on this aspect is that when the statute is silent about the right of appeal, the Courts cannot interpret and say that consequently an appeal is also maintainable. When the cases on hand are looked at in that angle, as stated supra it is only against the orders passed under sub-section (1) of Section 5 of the Act and an order passed under sub-section (4) of Section 5-A of the Act, appeals are provided for under sub-section(5) of Section 5 and Section 5-B of the Act respectively and for others the Act is silent. Of course, it is the contention of learned counsel Sri V.Rama Krishna Reddy, appearing for respondents that the impugned order passed in W.P.No.13096 of 1998 is only an order passed under Section 5 of the Act, but not an order passed under Section 6-A of the Act, as contended by learned counsel Sri K.Mahipathi Rao, appearing for petitioner.
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> Having heard the matter at length, this Court is of the view that the contention of Sri K.Mahipathi Rao and Sri Addepalli Suryanarayana, learned counsel appearing for petitioners appears to be correct and it is only an order passed under Section 6-A of the Act, but not an order passed under Section 5(1) of the Act. When once it is considered to be an order passed under Section 6-A of the Act, whether the appeal, as preferred by respondents is maintainable or not, is the question. Of course, if the judgment of the learned Single Judge of this Court is accepted, definitely an appeal is maintainable. But as stated supra, the Courts cannot interpret and give a right of appeal to the parties when the statute itself is silent, and as such, this Court is of the view that the matter requires re-consideration. Hence, for appreciation and determination of law on the subject, these matters have to be referred to a Division bench of this Court."

The issue for consideration in the writ petition or in the reference order relates to maintainability of an appeal against issuance of PPB/TD under Section 6-A of the Act.

The petitioner prays for writ of Certiorari to call for the records leading up to and inclusive of order in Case No.C3/JC/RCR/35/96 dated 20.04.1998 of the 5th respondent and quash the same as illegal and without authority.

The circumstances relevant for the disposal of the writ petition are as follows:

The case of writ petitioner is that an extent of Ac.7-29gts in Survey No.207 of Anisetti Duppalapalli Village, Thipparthi Mandal, Nalgonda District (for short 'the petition land') belonged to his father Ahmed Abdul Khader. According to petitioner, his father's name was recorded as pattadar in the revenue records. The petitioner claims right and title to petition land under compromise decree dated 01.08.1986 in O.S.No.885 of 1986 in the Court of District Munsiff, Nalgonda. The petitioner alleges that his name is recorded in revenue records and is in actual and physical possession of the petition land.

It is further averred that respondents 1 to 4 claim that their father late Dontam Narasimha Reddy was the protected tenant of the petition land and that respondents 1 to 4 continued to be in possession of petition land after the demise of their father. Though respondents 1 to 4 claim the status of tenants of petition land, neither their names nor name of their father is entered in the Tenancy Register or Certificate of Tenancy issued to them. The petitioner with a view to protecting his alleged possession had filed O.S. No.566 of 1990 in the Court of Junior Civil Judge, Nalgonda for the relief of perpetual injunction and the petitioner admits that the same was dismissed.

It is further averred that on 02.01.1993, the petitioner applied before the 7th respondent for issuance of PPB under Section 6-A of the Act and the Rules framed thereunder. The 7th respondent through order dated 23.02.1995, directed issuance of PPB to petitioner. Respondents 1 to 4 aggrieved by the order dated 23.02.1995 filed appeal before the 6th respondent under Section 5(5) of the Record of Rights (ROR) Act and the appeal was registered as Case No.E/3746/95. The petitioner objects to the maintainability of appeal under Section 5(5) of the Act against issuance of PPB or an order passed under Section 6-A of the Act. According to petitioner, the order dated 23.02.1995 directs issuance of PPB to him and in other words the instant order does not direct mutation of petitioner's name in ROR to challenge by way of appeal under the scheme of the Act. On 23.09.1996, the 6th respondent dismissed Appeal No.E/3746/95. Aggrieved by the dismissal order dated 23.09.1996, respondents 1 to 4 filed Revision Petition No.C3/JC/ROR/35/96 under Section 9 of the Act before the 5th respondent. The 5th respondent through order dated 20.04.1998 allowed the revision filed by respondents 1 to 4 and the relevant findings of the 5th respondent read thus:

> "It is evident from the certified copy of Tenancy register issued by the MRO Tipparthy that Sri Dontam Narsi Reddy s/o.Kotaiah is the P.T. for an area of Ac.39-29 gts in Sy.No.207 of A.Duppalapally (v). The petitioners being the Sons of late P.T. should be treated as P.Ts within the meaning section 40 of A.P.(TA) tenancy and Agri. Lands Act,1950. Both the lower courts have not contradicted this fact.
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> It is seen from the Panchanama conducted by the MRO on 16-2-95 (available at P 69 CF of MRO's file No.329/94) that the appellants are in possession of the land. The MM Court have also confirmed this fact in their judgment No.566/90 dt.2-10-96. The temporary injunction granted in favour of respondent vide I.A.No.398/90, in O.S.No.566/90 dt.5-7-90 has also been set-aside vide final judgment dt.29.10.96. It is also seen from RDO Nalgonda file No.E/3746/95 that the appellants are in continuous possession of the land. Hence, it is proved beyond any doubt that the appellants are in possession of the land in the capacity of P.Ts.
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> Regarding Item No.(3) of the above that according to rule 26(3) of A.P.ROR Act, 1971 the pattadar Pass book shall be given to the owner Pattedars, tenants, mortgagers. The MRO who conducted panchanama, regarding possession of the disputed land on 16-2-95 and who knows that the appellants are in possession of the land has erroneously issued orders vide procs. No.D/4329 /94 dt.23.2.95 to issue PPB in favour of the respondent as the P.Ts were no declared as owners u/s.38-E and the court has given injunction order in favour of the respondent. The action of the MRO in doing so is highly irregular. The appellate court has also failed to go into the details of the case and simply dismissed the appeal reiterating the plea of trial court without taking any independent decision. In view of the above facts the Revision Petition is allowed with the following directions.

i. The PPB/TD issued in favour of Respondent are cancelled.
ii. The wrong entries in the pahanies in Col. No.13 for the years 1984- 85, 1985-86 should be rectified.
iii. The RDO Nalgonda should re-open the ceiling case of appellants compute the disputed land to their holding and decide, whether Revision Petitioner herein becoming surplus or not.

Pronounced in the Open Court on 20th April,1998."

Hence, the writ petition.

The legal objections against the order impugned are two fold viz., no appeal under Section 5(5) of the Act is maintainable against the order or issuance of PPB under Section 6-A of the Act and the order dated 23.02.1995 in fact directs issuance of PPB and nothing else. Secondly, that the petitioner claims as successor-in-interest of his father Ahmed Abdul Khader and the Mandal Revenue Officer has not passed any order recording the name of petitioner under Sections 4 and 5 of the Act to pursue remedies available under the Act. Therefore, the petitioner prays for setting aside the order dated 20.04.1998.

On the contrary, the case of respondents 1 to 4 as available from the orders impugned is that the father of respondents 1 to 4 was a protected tenant and being the heirs of protected tenant, they are in actual possession of petition land. The issuance of PPB by reference to entries in Adangals for the year 1984-85 and 1985-86 is illegal and unauthorized. The issuance of PPB is in disregard of Rule 26(3) of the A.P. Rights in Land and Pattadar Pass Books Rules, 1989 (for short 'the Rules'). The order dated 20.04.1998 cannot be treated as a mere order directing issuance of PPB to the petitioner, but, in fact, accepts the compromise decree in O.S.No.885 of 1986 and rejects the claims of respondents 1 to 4 and, therefore, appeal under Section 5(5) of the Act is maintainable. In support of their case, respondents 1 to 4 place reliance upon the findings recorded by the 5th respondent vide order dated

20.04.1998.

In **N.Bal Reddy**'s case (1 supra), our learned brother Justice L.Narasimha Reddy, as he then was, has taken the view that issuance of PPB or making entries in PPB is a step consequential to the amendments or updating of record of rights under Section 5 of the Act. The acts of entering name in record of rights and/or issuance of PPBs are interrelated. A PPB is a copy of entries prepared and maintained under the record of rights. Regarding preparation and maintenance of record of rights, issuance of PPB under Section 6-A of the Act are interconnected and the issuance of PPB being a step ancillary and consequential to steps taken under Section 5 of the Act, the learned Judge ruled that an appeal under Section 5(5) of the Act is maintainable against issuance of PPB/TD by the Mandal Revenue Officer.

The learned counsel appearing for the parties have argued on the question of law referred to the Bench and on the merits of the orders impugned in the writ petition. Hence, we propose to consider the issues on merits as well as the question referred to Division Bench.

Mr. P.Suresh, learned counsel appearing for the petitioner, submits that the order of the 7th respondent dated 23.2.1995 is passed under Section 6-A of the Act and for all purposes amounts to issuing a copy of entries recorded in 1-B Register maintained by the 7th respondent. The issuance of PPB by itself either under the scheme of the Act or otherwise provides for an appeal before the 6th respondent. The learned counsel in support of his submission on the maintainability of appeal contends that the right of appeal is not a natural or inherent right to a party and a right of appeal does not exist or cannot be assumed unless expressly provided by a statute or by rules having the force of statute. A right of appeal is a substantive right and not a procedural matter. Further, the ratio in **N.Bal Reddy**'s case (1 supra) that making of entry under Section 5 of the Act and issuance of PPB is interdependent and inseparable and consequently appeal under Section 5(5) of the Act is maintainable suffers from patent infirmity inasmuch as under the scheme of the Act, a party is said to be aggrieved either at the stage of preparation, updating record of rights under Section 3 of the Act or effecting changes to an existing record of rights on the acquisition of right in one or the other way stipulated under Section 4 of the Act or upon regularisation of transactions under Section 5-A of the Act and consequent changes to the record of rights. But, appeal is not provided in the Act against the mere issuance of PPB evidencing entries borne out by record of rights. According to the learned counsel, an appeal against an order or issuance of pattadar pass book under Section 6-A of the Act is not provided under the Act and consequently the orders dated 23.09.1996 and 20.04.1998 are patently illegal and liable to be set aside. On merits, he submits that the observations of the 5th respondent that without regard to the claims of tenants, namely respondents 1 to 4, changing revenue entries is untenable and liable to be set aside.

On the contrary, the learned Government Pleader contends that Anisetti Duppalapalli Village is covered by tenancy rights and the petition land is in actual possession of respondents 1 to 4. The issuance of PPB and entry in adangals for the years 1984-85 and 1985-86 appears to be on the strength of the compromise decree in O.S.No.885 of 1986. Through the order dated 23.02.1995, the 7th respondent virtually accepted the claim of petitioner and replaced the name of petitioner's father. The grant of PPB is contrary to the Rules and the order of the 5th respondent dated 20.04.1998 is legal and no exception to any of the findings recorded therein can be taken. On the maintainability of appeal against order or issuance of PPB/TD under Section 6-A, the learned Government Pleader contends that the order or issuance of PPB/TD is not the substantive or decisive stage in maintenance of record of rights and the Legislature having regard to the scheme of the Act did not expressly provide right of appeal against the order or issuance of PPB/TD under Section 6-A of the Act. He relies upon sub-section (3) of Section 6-A to show that the authority for correction of entries in PPB/TD in the event of wrong or contrary reflection of entries in PPB from I-B register, is available.

Mr. E.Madan Mohan Rao, learned counsel appearing for respondents 1 to 4, contends that in the case on hand the
7th respondent accepted the compromise decree in O.S.No.885 of 1986, updated the pahanis for the years 1984-85 and 1985-86
and issued PPB under Section 6-A of the Act and it cannot be treated as mere issuance of PPB and accordingly

the remedy of appeal lies under Section 5(5) of the Act. The 7th respondent incidentally accepted the case of petitioner and rejected the claim of respondents 1 to 4. Therefore, respondents 1 to 4 were aggrieved by the entry of petitioner's name in any form in the revenue records and issuance of PPB. Accordingly, an appeal was filed and in the facts and circumstances of this case, appeal under Section 5(5) is maintainable. According to him, respondents 1 to 4 rightly pursued the remedy of appeal and revision under the scheme of the Act and no exception can be taken to the findings recorded by the 5th respondent.

From the case set up by the parties and the rival submissions of learned counsel appearing for them, the following points are framed for decision.

1. Whether the order dated 23.02.1995 amounts to issuing PPB under Section 6A of the Act or effecting entries in the revenue record or record of rights?
2. Whether an appeal to Revenue Divisional Officer under Section 5(5) of the Act is maintainable against issue of PPB/TD under Section 6-A of the Act?

Point No.1:

The circumstances under which the legal remedies have been pursued by the parties are already stated in detail. With circumspection, the case of parties is referred.

On 01.08.1986, the petitioner claims to have obtained a compromise decree in O.S.No.885 of 1986 for the petition land. According to the parties, the petition land stood in the name of one Ahmed Abdul Khader. On 10.11.1994, the petitioner, on the strength of entries in pahanis for the years 1984-85 and 1985-86, applied for issuance of PPB. The 7th respondent considers the legal effect of the decree in O.S.No.855 of 1986, the absence of names of respondents 1 to 4 in tenancy register and that as respondents 1 to 4 are out of possession, directs issuance of PPB to the petitioner. From the above, it is clear that the 7th respondent for all purposes recognises acquisition of right by petitioner through compromise decree dated 01.08.1986 and rejects the claim of respondents 1 to 4 as their names are unavailable in the tenancy register.

The conclusions of 7th respondent as projected by the petitioner, cannot be treated as an order simplicitor directing issuance of PPB under Section 6-A of the Act. Therefore, in the very facts and circumstances of this case and having regard to the findings recorded by the 5th respondent through order dated 20.04.1998, it cannot be held that the appeal filed by respondents 1 to 4 against the order dated 23.02.1995 is not maintainable. The 5th respondent after perusing the entire record has found that respondents 6 and 7 have ignored the panchanama dated 16.02.1995 to appreciate possession of petition land, the fact that the petition land is covered by tenancy laws and rectification of entries in revenue record is carried out by reference to a compromise decree and contrary to the claims of respondents 1 to 4 as persons in possession of petition land. The findings recorded by 5th respondent do not suffer from any infirmity or illegality. After perusing the order dated 20.04.1998, we are satisfied that the findings do not warrant interference of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. Therefore, in the fact situation of this case, both on merits and on the question of maintainability of appeal and revision against the order of 7th respondent dated 23.02.1995, no exception can be taken to the impugned order. The point is answered in favour of respondents 1 to 4 and against the petitioner.

Point No.2:

The A.P. Rights in Land and Pattadar Pass Books Act, 1971 provides for the manner, method of preparation of record of rights and maintenance of record of rights. Section 3 of the Act deals with preparation and updating of record of rights of agriculture lands. Section 4 of the Act provides for intimation of acquisition of rights by succession, survivorship, any right accrued as owner etc., by a person for entering the name in the record of rights to the recording authority. Section 5 of the Act enables the Mandal Revenue Officer to consider the request received under Section 4 of the Act and carryout the amendment in the record of rights in accordance with such determination. Section 5-A of the Act provides for regularization of certain alienations or other transfer of lands, issue of certification of regularization under Form 13-B and consequently incorporating the names of such persons in the record of rights. Section 3(3) provides for a remedy before the recording authority to an aggrieved party against notification issued under Section 3(2). The grievance, if any, in the preparation of record of rights under Section 3 is addressed by the recording authority himself. The remedy of appeal under Section 5(5) of the Act is provided against the decision to incorporate changes in the record of rights under Sections 4 and 5 of the Act to the Revenue Divisional Officer. The remedy of appeal at that stage fits into the scope of intimation under Section 4 of the Act and consequence of accepting the intimation. Similarly, appeal is provided under Section 5-B of the Act to the Revenue Divisional Officer against the regularization orders passed under Section 5-A of the Act. The PPB/TD is not defined under the Act or the Rules made thereunder. Section 6-A is introduced through Act 9 of 1994. It is pertinent to note that through Act 9 of 1994, Section 5-B was introduced providing for the remedy of appeal against regularization orders under Section 5-A of the Act. Thus, it is evident that while introducing Section 6-A through Amendment Act 9 of 1994 along with Section 5-B, the Legislature did not think it necessary to provide for appeal against the issuance of PPB/TD under Section 6-A of the Act. At this stage, it is relevant to extract Sections 5(5) and 6-A of the Act.

> "Section 5(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 the Revenue Divisional Officer or 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." (Emphasis added)
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> "Section 6-A: Pass Book holder to have entries of alienation etc. recorded in Pass Book:- (1) Every owner, Pattadar, mortga5gee, or tenant of any land shall apply for the issue of a pass book and title deed to the Mandal Revenue Officer on payment of such fee as may be prescribed. The owner-pattadar shall apply for the issue of a title deed in addition to a pass book.
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> Provided that an occupant of an inam land is also eligible to apply for the issue of a pass book and title deed as an occupant:
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> Provided further that where no application is made under this sub-section, the Mandal Revenue Officer may *suo motu* issue a Pass Book after following the procedure prescribed under sub-section (2) and collect the fee prescribed therefor.
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> (2) On making such application, the Mandal Revenue Officer shall cause an enquiry to be made in such manner as may be prescribed and shall issue a title deed and pass book in accordance with the Record of Rights with such particulars and in such form as may be prescribed:
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> Provided that no such title deed and pass book shall be issued by the Mandal Revenue Officer unless the Record of Rights have been brought upto date.
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> (3) **The entries in the title deed and pass book may be corrected either suo motu or on an application made to the Mandal Revenue Officer in the manner prescribed**. (emphasis applied)
>
> (4) The Government may prescribe by rules the manner in which the title deed and pass book may be issued to all owners, pattadars, mortgagees or tenants and to such other person in accordance with the record of rights.
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> (5) The title deed issued under sub-section (1) and duly certified by the mandal Revenue Officer, or such other authority as may be prescribed, shall be the title deed in respect of an owner-pattadar and it shall have the same evidentiary value with regard to the title for the purpose of creation of equitable mortgage under the provisions of the Transfer of Property Act, 1882 as a document registered in accordance with the provisions of the Registration Act, 1908 under the law."

The scope and object, the preparation and maintenance of record of rights and statutory appeals provided against preparation, and rectification or regularization under the Act have been the subject matter of reported cases. This Court in **M.B.Ratnam v. Revenue Divisional Officer, Ranga Reddy District East Division**[2], considered the maintainability of appeals/revisions against the orders of regularization passed under Section 5-A prior to 31.10.1993 i.e., before Amendment Act No.9 of 1994 and held that right of appeal is a statutory right and is created through Amendment Act 9 of 1994. Therefore, no appeal against an order of regularization under Section 5(5) passed prior to 31.10.1993 is maintainable. However, it is held that against such order of regularization, a revision to the District Collector under Section 9 of the Act is maintainable. In **Konkana Ravinder Goud And Ors. v s Bhavanarishi Co-Operative House Building Society,**[3] a Division Bench of this Court considered the maintainability of revision against order of regularization under Section 5-A of the Act prior to Amendment Act 9 of 1994 and held that a revision is maintainable. The views expressed by two Division Benches i.e., in the cases of **M.B.Ratnam** (2 supra) and **Konkana Ravinder Goud** (3 supra) were considered by a Full bench in **Santhosh Verma v. Joint Collector, Ranga Reddy District.** [4]

In **Santhosh Verma's** case (4 supra), our learned sister Justice Ms. G. Rohini, as she then was, has considered the statement of objects and reasons of the Act, the working the Act and the statutory remedies of appeal/revision provided against the orders passed under the Act. Therefore, we deem it convenient to rely upon the following paragraphs in **Santhosh Verma**'s case (4 supra) to re-state the contours of the Act and the statutory remedies available to an aggrieved party.

"As per Section 3 of ROR Act, 1971 the recording authority shall maintain a record of rights in all lands in every village in that area containing particulars specified therein. The fact of completion of record of rights in respect of the village shall be notified in A.P. Gazette and thereafter any person affected by an entry in such record of rights may apply for rectification of the entry in which event after making necessary enquiry, a decision will be given on such application directing rectification of the record of rights which shall subject to the provisions of Section 9, be final. That apart, as per Section 4 of the ROR Act any person acquiring by succession, survivorship etc. any right as owner, pattadar/mortgagee shall intimate in writing his acquisition of such right to the Recording Authority. On receipt of such intimation, the recording authority shall determine as provided under Section 5 and shall carry out the amendment in the record of rights in accordance with such determination. *Against such order passed by the recording authority either making an amendment in the record of rights or refusing to make such an amendment, an appeal shall lie under Section 5(5) of the ROR Act to the Revenue Divisional officer and the decision of the appellate authority shall be final subject to the provisions of Section 9 providing for a remedy of Revision to the Collector*. As per Section 6 of the ROR Act, every entry in the Record of Rights shall be presumed to be true until the contrary is proved or until it is otherwise amended in accordance with the provisions of the Act. Section 7 declared that the record of rights shall be open for inspection of the public and that they are also entitled to obtain certified copies of the record of rights or extracts therefrom. Section 8 of the ROR Act bars suits against the Government or their officers in respect of a claim to have an entry made in any record of rights. Section 9 provided for a remedy of revision. As per Section 9 the Collector was empowered either suo motu or on an application made to him to call for and examine the record of rights prepared or maintained under Section 3 or any order passed or proceedings taken by any recording authority or an appellate authority to satisfy himself as to the correctness, legality or propriety of any such decision.

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However no provision was made by Amendment Act 1 of 1989 providing for an appeal or revision against the regularization ordered by the Mandal Revenue Officer under Section 5-A. Such remedies came to be inserted into ROR Act after about 4 years by A.P. Act No.9 of 1994 w.e.f. 31.10.1993. By Act 9 of 1994 Section 5-B has been added providing for an appeal to the Revenue Divisional officer against the orders passed under Section 5-A(4) by the Mandal Revenue officer. Simultaneously Section 9 was also substituted expressly conferring the power of Revision on the Collector against the orders passed under Section 5-A as well as Section 5-B of the ROR Act.

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There can be no dispute about the fact that the entries in the pass book are based on the entries in the record of rights prepared under the provisions of the ROR Act and every entry in the pass book must be a true reflection of entries in the record of rights. The issuance of pattadar pass book or making entries therein is always a step consequential to the record of rights prepared, brought up to date and maintained under Section 3 of the ROR Act."

The Full Bench was not considering the maintainability of appeal against issuance of PPB under Section 6-A of the Act. But it is noted that the appeal under Section 5(5) is maintainable against the orders under Section 4 of the Act. It is also held that the issuance of PPB making entries in the PPB is a step consequential to the updation of the record of rights prepared and maintained under the Act.

Now, we construe the scope of Section 5 (5) and Section 6-A of the Act and whether an appeal against the order under Section 6-A is provided or the remedy of appeal under Section 5(5) can be inferred as held in **N.Bal Reddy's** case (1 supra).

From a bare reading of Section 5(5) of the Act, it can be held that against every order of recording authority either making an amendment in the record of rights or refusing to make such an amendment, an appeal to the RDO, is provided within the time stipulated in the Section. Under the Act, making an amendment in the record of rights or refusing to make amendment in record of rights is a crucial stage and a substantive decision rendered by the recording authority. Therefore, right of appeal is provided against such decisions. Likewise, from the reading of Section 5(5) of the Act, it cannot be construed that Section 5(5) provides remedy of appeal against orders under Section 6-A of the Act. Issuance of PPB/TD or making entries therein is always a step consequential to the record of rights **prepared**. Therefore the plain reading of Section 5(5) makes it clear that appeal against order under Section 6-A is not maintainable.

For the above view, we are supported by the decision reported in **M.B.Ratnam's** case (2 supra). The relevant para reads as follows:

"It is thus clear that Section 5-A of the R.O.R. Act is a special and composite provision, which provides for regularisation of alienation or other transfers of land under unregistered instruments. Its area of operation is totally different from that of the area of operation of Section 5 of the R.O.R. Act, which essentially deals with amendment and updating of record of rights on the strength of acquisition of any right referred to in Section 4 of the R.O.R. Act. Making of an entry in the pass book on the strength of the certificate issued under Section 5-A (4) cannot be equated to that of amendment and updating of Record of Rights as provided for under Section 5(1) of the R.O.R. Act. *An appeal under Section 5 (5) is provided only as against making amendment or refusing to make amendment in the record of rights under Section 5(1) of the Act. Therefore, no appeal as against a consequential decision of the recording authority under Sub-section (5) of Section 5-A is provided for under Sub-section (5) of Section 5, which in turn provides for an appeal against the act of amending and updating of record of rights*."

(emphasis added)

Next, we examine the scope of Section 6-A of the Act and availability of remedy of appeal under the Act.

Sections 5-B and 6-A are introduced through Amendment Act 9 of 1994. Through the amendment, remedy of appeal against regularization order under Section 5-A of the Act and provision for issuance of PPB/TD under Section 6-A of the Act is enacted. Sub-section (3) of Section 6-A provides for correction of entries in the PPB/TD by the Mandal Revenue Officer either *suo motu* or on an application. As already noticed, the record- of- rights is prepared under Section 3 of the Act, updated/ maintained under Sections 4, 5 and also as a consequence of regularization under Section 5-A of the Act. Issuance of PPB is covered by Section 6-A of the Act. The PPB is nothing but a copy or reflection of entries in the record of rights prepared or maintained at one or the other stages under the Act as stated above. The PPB/TD is maintained and issued in Form No.14-C of the Rules. PPB/TD contains the entries as borne out by 1-B Register. With the issue of pass book to any person whose name in the applicable column is recorded in record of rights, it cannot be said such issuance adversely affects any person. A person is certainly aggrieved by illegal preparation of record of rights and against such illegal preparation the remedy is provided under Section 3(3) of the Act. Likewise, against illegal or erroneous updation of record of rights under Sections 4 and 5 or regularization under Section 5-A of the Act, the remedy of appeal under Section 5(5) or Section 5-B respectively is available to an aggrieved party. On the other hand, Section 6-A(3) provides for correction of erroneous entries in PPB/TD issued by the Mandal Revenue Officer. The reason for not providing any appeal against the issuance of PPB/TD is manifest from the Scheme of the Act viz., that the issuance of TD/PPB does not by itself adversely affect the substantive right of a person, who claims or has a right in the property for which PPB is issued. In other words, the issuance of PPB/TD is a consequential act and entries in PPB/TD are mere reflection of entries of 1-B Register. Mere filing of appeal against issuance of pattadar pass book which is only a copy of 1-B register is not an efficacious remedy under the scheme of the Act.

It is well settled that the right of appeal must find its source in legislative authority. The right of appeal accrues to the litigant when it is expressly provided for in the statute and axiomatic that the right of appeal is a substantive right and must be conferred by a statute. As already held, appeal is provided for against the original proceedings or substantive determination under Sections 4, 5 and 5-A of the Act. The Legislature in its wisdom and noticing the purpose of issuing PPB/TD did not provide right of appeal against mere issuance of PPB/TD under Section 6-A of the Act. Therefore, on the literal construction of Sections 3 to 6-A of the Act, it can be held that the remedy of appeal under Section 5(5) of the Act is not provided against the issuance of PPB/TD under Section 6-A of the Act. By treating the action under Sections 5 and 6-A of the Act as single or mutually dependent, in our considered view, the remedy of appeal against mere issuance of PPB/TD under Section 6-A of the Act is not available.

For the above reasons, we are not in agreement with the view expressed in **N.Bal Reddy**'s case and is overruled. The point No.2 is answered accordingly.

Having regard to our findings on Point No.1, the writ petition is dismissed. No order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of. No costs.

DILIP B.BHOSALE, ACJ

S.V.BHATT, J

Date:24.07.2015
Stp

[1] 2004 (2) ALT 457

[2] 2003 (1) ALT 688 (DB)

[3] 2003 (5) ALD 654 (DB)

[4] 2011 (3) ALT 683 (FB)