

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.1377 OF 2015

ORDER:

This writ petition is filed by the petitioners seeking to declare the action of the 3rd respondent in not taking up the Appeal No.A8/1263/2007 filed by the petitioners under Section 5-B of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'the Act') with reference to the lands admeasuring Ac.8.17 gts., (wrongly mentioned as Ac.7.21 gts in the appeal filed before the 3rd respondent) situated in Sy.No.125/1 claiming by the families of the petitioner Nos.1 to 3 and the lands admeasuring Ac.9.12 gts., situated in Elchipur Village, Kamareddy Mandal, Nizamabad District, and to direct the 3rd respondent to complete the adjudication of the above said Appeal of the petitioners in a time bound manner.

It is the case of the petitioners that the petitioner Nos.1 and 2 are the sons of Sri Uppu Mallaiah. Their father died on 20.05.2011 leaving behind these petitioners to succeed Ac.8.17 gts., (wrongly mentioned in the Appeal before the 3rd respondent as Ac.7.21 gts.,) in Sy.No.125/1 of Elchipur Village, Kamareddy Mandal, Nizamabad District. Their father Sri Uppu Mallaiah, S/o. Narasaiah was recorded as pattedar for an extent of Ac.4.09 gts in Sy.No.125/1 in Khasra Pahani and the other extent of Ac.4.08 gts in Sy.No.125/1 was held by his brother Uppu Narayana and the same was vested with their father since Sri Uppu Narayana died issueless, as such their father was holding total extent of Ac.8.17 gts in Sy.No.125/1 of Elchipur, which is succeeded by the petitioners 1 and 2, on account of death of their father and the same is evident from the revenue records. The name of the father of the 3rd petitioner was recorded as pattedar in Khasra Pahani for an extent of Ac.8.16 gts., in Sy.No.125/2 of Elchipur Village and 3rd petitioner succeeded the said land and as such all the

petitioners having succeeded the lands from their forefathers, they became absolute owners and in possession of the said extent till date.

On noticing that the 5th respondent got manipulated the pahanies and entered their name against the subject properties, the father of the petitioners 1 and 2 filed Revision Petition before the 2nd respondent in D2/4164/2007 claiming to an extent of Ac.7.21 gts., (Actually it is Ac.8.17 gts) in Sy.No.125/1. Similarly the 3rd petitioner filed in Case No.D2/4165/2007 claiming an extent of Ac.9.12 gts., (Actually it is Ac.8.16 gts) in Sy.No.125/2 respectively. The 2nd respondent has returned the same on 23.11.2007 giving liberty to the petitioners to prefer appeals. Accordingly, the father of the petitioners 1 and 2 and the 3rd petitioner initially preferred separately revisions under Section 5-B of the Act before the 3rd respondent and since the cause of action is similar the 3rd respondent has clubbed two appeals together along with other three more appeals. It is stated that during the pendency of the appeals, the petitioners also filed an Interlocutory Applications on 24.11.2007 itself and the said applications are also pending. It is the further case of the petitioners that in spite of filing of statutory appeal in the year 2007 itself, the respondent No.3 has not fixed any date of hearing till date. Hence, the petitioners filed the present writ petition.

The learned counsel for the petitioners submits that the 4th respondent at the instance of the 5th respondent changed the names of the petitioners in the revenue records without giving any notices to the petitioners, though the petitioners' names were appearing in the revenue records since their forefathers and he prays to allow the writ petition.

On the other hand, learned Assistant Government Pleader for Revenue submits that the District Collector is the competent authority under Section 9 of the Act to make any corrections under the Act, except the correction on account of clerical errors. He further submits

that the petitioners may be directed to approach the District Collector invoking Section 9 of the Act and it would be obligatory for the District Collector to consider their application and pass appropriate orders.

It is not in dispute that as on the date of filing of the appeals by the petitioners before the 3rd respondent, third parties names were appearing in the revenue records against the properties to which the petitioners are claiming right. In other words, the petitioners are seeking substitution of their names in the place of the names already recorded in the revenue records. Entries in the revenue records reflecting a party's name relate to the proceedings of the Tahsildar under Section 3 of the Act. It is not the case of the petitioners that at the time when the names of the said third parties were initially recorded (the date & details of which are not mentioned by the petitioners in the writ petition), the claim of the petitioners was also there before the 3rd respondent, who was exercising powers under Section 3 of the Act. Once such exercise as required under Section 3 of the Act is completed by the Tahsildar, except clerical errors, only the District Collector, under Section 9 of the Act, is empowered to order any corrections to the existing entries. Exercise of power under Section 9 of the Act could be done by the revenue authority either suo motu or on an application.

In W.P.No.558 of 2015, this Court by its order dated 11.02.2015 had held as follows:

“A perusal of Sections 3 to 5 and 9 of the Act leave no manner of doubt that the Tahsildar is not vested with any powers to make corrections either suo motu or on an application except at the time of making entries for the first time in terms of the notification issued under Sections 3(1), 3(2) of the Act. Any corrections in relation to the entries could be made in the given circumstances satisfying Section 3(3) of the Act within one year. If the case requiring corrections of the revenue records beyond the time limit of one year, necessary orders can be passed only by the District Collector in exercise of the revisional powers and

In the circumstances, liberty is given to the petitioners to approach the District Collector, Nizamabad District and submit the applications ventilating their grievance and seek redress. On submission of such applications, the District Collector shall dispose of the same within a period of three months.

JUSTICE CHALLA KODANDA RAM

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THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

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Date:16.02.2015.

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