***HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

+ **WRIT PETITION No.2913 OF 2015**

%12.02.2015

Kencharayappa and another

..... Petitioners

And

State of A.P, rep. by its Prl. Secretary, Revenue Department at Secretariat, Hyderabad and 2 others

.....Respondents

! Counsel for the Petitioners: Sri N. Ranga Reddy

^ Counsel for respondents : Asst. Government Pleader for Revenue

< Gist:

> Head Note:

? Cases referred: Nil

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.2913 OF 2015

ORDER:

This writ petition is filed by the petitioners seeking to declare the action of the 3rd respondent in not implementing the directions issued by the 2nd respondent vide proceedings dated 10.07.2014 and in not considering the request made by the petitioners through notice dated 13.1.2015 as illegal and arbitrary and consequently to direct the 3rd respondent to implement the directions issued by the 2nd respondent dated 10.7.2014 forthwith and cancel all unauthorized entries in the records of rights in respect of property over an extent of Ac.12.38 and Ac.10.16 cents respectively situated in Sy.No.58, Amarapuram Village and Mandal of Ananthapur District.

It is the case of the petitioners that they are the owners of the property over an extent of Ac.12.38 cents and Ac.10.16 cents respectively situated in Sy.No.58, Amarapuram Village and Mandal of Ananthapur District. It is also stated that one Saneeramma is the owner of an extent of Ac.2.02 cents in the same survey number. On noticing that some third parties names were shown against their properties in the revenue records, the petitioners approached the District Collector bringing the said fact to his notice and sought necessary corrections in the revenue records. The District Collector, in turn, by his proceedings dated 30.05.2014 directed the Revenue Divisional Officer-2nd respondent to treat the application made by the petitioners as suo motu appeal and initiate action in terms of Rules framed under the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'the Act'). The petitioners filed an appeal before the Revenue Divisional Officer, through their Advocate Sri D.Nagaraju. The Revenue Divisional Officer, in turn, through his letter dated 10.07.2014 directed the Tahsildar to take necessary action. In spite of the said direction of the 2nd respondent-RDO, no further action is being taken up by the 3rd respondent. Hence, this writ petition.

The learned counsel for the petitioners submits that the writ petition is filed seeking a direction to the respondents to take necessary action particularly keeping in view of the directions of the 2nd respondent to the 3rd respondent.

On the other hand, Sri S. Srinivasa Rao, 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 application by the petitioners to the District Collector, 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 Mandal Revenue Officer, 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 that view of the matter, the proceedings dated 30.5.2014 issued by the District Collector directing the 2nd respondent to treat the application of the petitioner as suo motu appeal and pass appropriate orders in terms of Rules framed under the R.O.R Act are totally unmeaning. It is unfortunate that the highest authority of the District enjoined with the duty and functions of revisional authority has not even looked into the provision before mechanically directing the RDO to exercise power of appeal which power is not conferred upon the RDO by the Statute. In the facts of this case, this Court has no hesitation to say that neither the District Collector nor the RDO have applied their mind, instead they had mechanically pushed the papers down to their subordinates. 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 the Tahsildar is not vested with any such power. In that view of the matter, liberty is given to the petitioner to approach the 2nd respondent-District Collector, and submit an application ventilating his grievance and seek redress. On submission of such application, the 2nd respondent-District Collector shall dispose of the same within a period of six months."

In the circumstances, the District Collector is directed to call for the record and exercise powers conferred upon him under Section 9 of the Act to redress the grievance of the petitioners within a period of 3 months from today.

With the above observations, the writ petition is disposed of. There shall be no order as to costs. Miscellaneous Petitions, pending if any in this writ petition, shall stand closed.

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JUSTICE CHALLA KODANDA RAM

Date:12.02.2015

Note:

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THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

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