

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

* * *

WRIT PETITION No. 34915 of 2015

BETWEEN

Y.Yellareddy

... PETITIONER

AND

The State of Andhra Pradesh, rep. by its Principal Secretary and others

...RESPONDENTS

Date of Order pronounced: 29.10.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

1. Whether Reporters of Local newspapers Yes/No

may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No

marked to Law Reporters/Journals?

3. Whether his Lordship wish to see the Yes/No

fair copy of the Judgment?

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ORDER:-

Heard learned counsel for the petitioner and learned government pleader for Revenue.

2. This writ petition is directed against the order of the Revenue Divisional Officer, Anantpur in D.Dis.No.D3.9808/2014 dated 23.05.2015, whereby the pattadar passbook and title deed issued to the petitioner were cancelled. The said order is questioned in this writ petition, primarily, on the ground that the RDO has proceeded to take *suo motu* cognizance on the basis of the report of the Tahsildar and had made enquiries and cancelled the pattadar passbook of the petitioner. It is therefore contended that under Section 5(5) of the A.P.Rights in Land and Pattadar Passbooks Act, 1971, no such powers vests with the RDO to take *suo motu* proceedings either on his own or on the report of the Tahsildar. Section 5(5) of the Act, extracted hereunder, clearly provides that the RDO is the appellate authority designated against every order of the recording authority referred therein.

“Sec.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 be subject to the provisions of Section 9, be final.”

It is therefore contended that the order itself is without jurisdiction.

3. Learned government pleader was required to verify the legal position. In view of the said legal question raised by the learned counsel for the petitioner, learned government pleader fairly submits that the issue is the very same issue, which is already decided by this court in *Thota Narasinga Rao vs. State of A.P.*, [W.P.No.16335 of 2006 dated 04.12.2006], wherein a learned single Judge of this court held that exercise of *suo motu* powers by the RDO is *ex facie* illegal as neither Section 5(5) of the Act nor Rule 13(2) of the Rules

empower the RDO to exercise such a power.

4. In view of the aforesaid statement, the impugned order is liable to be set aside on the said short ground that the RDO had no jurisdiction to exercise *suo motu* powers and cancel the pattadar passbook and title deed of the petitioner. The provision, extracted above, as well as the decision of this court clearly holds that such power does not exist with the RDO unlike that of revisional authority under Section 9 of the Act. Hence, the impugned order is set aside.

5. The writ petition is allowed. However, this order will not preclude the authority under Section 9 of the Act from exercising its powers if it so desires. If any such proceeding is initiated by the authority under Section 9 of the Act, petitioner is at liberty to defend such proceeding by raising all his contentions available to him under law.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

October 29, 2015

LMV