THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.31825 of 2014

ORDER:

The present Writ Petition came to be filed seeking issuance of *mandamus* declaring the action of the Revenue Divisional Officer, Gudur, Nellore District in submitting the report, dated 30.08.2014, and the consequential action of the District Collector in issuing the proceedings, dated 02.09.2014 and 07.10.2014, as illegal and arbitrary.

2. The factual matrix in issue is as under:

The petitioners herein were granted joint ryotwari patta on 06.11.1961 in S.R.No.452/11 (a)/60/PN/VGR by the Additional Assistant Settlement Officer, Nellore District. It is said that in spite of allotment of the said patta, the Additional Settlement Officer has not rectified/carried out mutations and continues to show the land as Gayalu in the revenue records. Challenging the same, the writ petitioners filed W.P.No. 23263 of 2007 before this Hon'ble Court with the following relief:

> "to issue an appropriate writ or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not implementing and giving effect to the orders of the Additional Assistant Settlement Officer, Nellore, dt.06.11.1961 in S.R.No.452/11 (a)60/PN/VGR of Periyavaram Village, unjust, contrary to law and issue the consequential directions to the respondents forthwith give effect to the proceedings of the Additional Assistant Settlement Officer, Nellore and mutate the same in the relevant Revenue records and pass such other order or orders as deemed fit and proper in the circumstances of the case."

By an order, dated 02.11.2007, this Court disposed of the said Writ Petition directing the Tahsildar-2nd respondent herein to consider the representations made in this regard for implementation of the patta granted in favour of the writ petitioners and their predecessors in title.

3. As the respondent authorities were making efforts to alienate the said land, the writ petitioners filed W.P.No.26167 of 2007, in which this Court by an order, dated 07.12.2007 granted *status quo* order. Subsequently, the Tahsildar considered the representations made by the petitioners in pursuance of the order dated 02.11.2007, and rejected the request of the petitioners for mutating their names in the revenue records vide proceedings, dated 10.12.2007. Challenging the same, the petitioners filed W.P.No.27449 of 2007 and by an order, dated 16.09.2009, this Court allowed the Writ Petition. Relevant portion of the order is as under:

> "Therefore, I am of the opinion that on this ground alone the impugned order is liable to be set aside and it is accordingly set aside and the matter is remanded to the 3rd respondent-Tahsildar for conducting a fresh enquiry for the purpose of mutation of the names of the petitioners taking into consideration the Ryotwari Patta granted in their favour and decide the matter afresh after issuance of notice to all the parties concerned."

4. When the authorities failed to comply with the directions issued by this Court, the petitioners herein filed C.C.No.1535 of 2010. During the course of hearing of the Contempt Case, the Revenue Authorities including the Joint Collector and the Chief Commissioner Land Administration came forward and undertook to implement orders of this Court and accordingly passed an order on 21.07.2011.

5. In exercise of discretion of the authorities to enquire into the question as to whether the joint ryotwari patta granted to the petitioners is genuine or not, the Joint Collector conducted a detailed enquiry and by his order, dated 24.03.2012, upheld the action of the Tahsildar stating that the said patta is a valid one, but, however observed that implementation of the said order will be subject to orders in Writ

Appeal filed against the order in W.P.No.27449 of 2007.

6. It is to be noted here that Writ Appeal (SR) No.46225 of 2011 filed by the Government was dismissed on 28.08.2013 by the Division Bench of this Hon'ble Court. Thereafter, the petitioners herein made an application to the Government to implement the order of the Tahsildar as upheld by the Joint Collector and to issue No Objection Certificate. The Government vide Memo No. 17641/JA(1)/2014, dated 26.05.2014, directed the 1st respondent to drop further action in the matter and instructed the authorities concerned to issue No Objection Certificate to the petitioners. Thereafter, the 1st respondent issued proceedings, dated 25.07.2014 directing 2nd and 4th respondents to implement the orders of the Government, dated 26.05.2014. However, when the petitioners approached the authorities for issuance of No Objection Certificate, they went back on their earlier undertaking. Immediately, the petitioners herein got issued notice on 25.08.2014, but instead of complying with the orders of the 1st respondent, the 4th respondent sent a report, dated 30.08.2014 to the 1st respondent reiterating the earlier stand taken in the writ petitions. Challenging the same, the present Writ Petition is filed.

7. Learned Senior Counsel Sri L.Ravichandar, appearing for the petitioners strenuously contends that the order passed by the Revenue Divisional Officer is without jurisdiction. According to him the earlier order passed by the authorities concerned, which was subject to result of the Writ Appeal, was ultimately confirmed by this Court and hence, the Revenue Divisional Officer erred in passing the order contrary to the earlier orders and the undertaken given before this Court. The learned Government Pleader opposed the same.

8. From a perusal of the material on record, it is clear that on 26.05.2014, the Principal Secretary to Government issued

proceedings vide Memo No.17641/JA (1)/2014 directing the District Collector to drop further action in the matter and instructed the District Authorities to issue No Objection Certificate to the petitioners in respect of the land in dispute. In the said order, the Principal Secretary to the Government referred all the earlier orders and directed the authorities to issue No Objection Certificate to the petitioners. Further, it is to be noted that in the order, dated 16.09.2009 passed in W.P.No.27449 of 2007, the Revenue Divisional Officer was never a party to the said proceedings. It was only the Joint Collector, who was a party to the proceedings and having regard to the orders passed, he conducted an enquiry with regard to genuineness of the ryotwari patta and observed held as under:

> "On 31.03.2011, the Tahsildar, Venkatagiri has filed Writ Appeal with delay condonation petition against the order dt.16.9.2009 issued in W.P.No.27449/2007. It is pending befoe the Hon'ble High Court of Andhra Pradesh, Hyderabad. Thus in such an event, when the Writ Appeal petition is pending before the Hon'ble High Court of Andhra Pradesh, it is therefore proper to await the disposal of such petition by the High Court instead of passing any judgment in this matter without proper authority and jurisdiction. In any case the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryothwari) Act, 1958 does not empower the Settlement Authority with such power to adjudicate in this matter where a patta has already been held to exist by the Hon'ble High Court of Andhra Pradesh. Since no fresh grounds have been raised in the present enquiry before this revenue court other than what has already been contended by the revenue authorities in the series of litigations before the Hon'ble High Court, the action of Tahsildar, VEnkatagiri reported in Rc.B.104/90, dated 21.07.2011, wherein she has implemented the orders of the Single Judge issued in W.P.No.27449/07 dt.16.9.2009 by mutating the names of the petitioners in respect of the lands in Sy.No.161/3, Ac.5.32 of Periyavram Village and also issued Pattadar Pass Books/Title Deeds to Sri Vemula Eswaraiah and 4 others, is upheld. Thus necessary corrections should be carried out in the relevant revenue records subject to further decision of the Hon'ble High Court in the Writ Appeal filed in this regard."

9. It is also to be noted that pursuant to the order passed by this

Court in W.P.No.27449 of 2007, mutations were effected by incorporating the names of the petitioners in the revenue records.

10. For the above mentioned reasons, the Writ Petition is allowed setting aside the order, dated 30.08.2014 and its consequential orders, dated 02.09.2014 and 07.10.2014 and further the authorities concerned shall issue No Objection Certificate to the petitioners at the earliest. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

DECEMBER 16, 2015
YVL

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.31825 of 2014

Dt:16.12.2015

YVL