

**THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

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**WRIT PETITION No.27555 OF 2011**  
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**ORDER:**

The present Writ Petition came to be filed seeking issuance of writ of *cerciorari* calling for entire records connected to proceedings No.G/1973/2011, dated 30.08.2011 passed by the 1<sup>st</sup> respondent, examine the same and set it aside, after declaring the same as illegal and irregular and consequently, direct respondents 1 and 2 to continue the names of petitioners in all records of rights connected to their respective lands covered by Sy.Nos.619, 692, 642, 637, 638, 643, 638/1, 614, and 586 of Nennel village.

2. Learned counsel for the petitioners contends that Sub-Collector, Mancheri, has no power to maintain a *suo motu* appeal under Section 5B of the ROR Act.

3. Learned Government Pleader for Revenue submits that though the words '*suo motu* appeal' have been mentioned in subject, it contains all the ingredients of an appeal under the provisions of the Act and merely because wrong nomenclature is used in the order, it cannot be said that the Sub-Collector has *suo motu* took up the case by treating the same as an appeal.

4. A perusal of the record reveals that the Tahsildar passed the order in the month of November, 2010 i.e., on 18.11.2010 without there being an application. The material placed along with the counter affidavit shows that much prior to the date of passing of the order, agriculturists of Nennel village made a representation to the Sub-Collector, Mancheri and treating the same as an appeal, the impugned order came to be passed. Therefore, the

argument of the learned Government Pleader for Revenue that mentioning of wrong nomenclature by itself does not go to the root of the matter cannot be accepted. Even assuming that the impugned order came to be passed pursuant to a representation made and by treating the said representation as an appeal, the same could not have been entertained without there being an application for condoning the delay.

5. On that short ground the order under challenge is set aside giving liberty to the unofficial respondents to prefer an appeal, in accordance with law, by explaining the delay and in which event, the same shall be considered and dealt with in accordance with law, as early as possible, preferably within a period of eight (08) weeks from the date of receipt of a copy of this order. Till such time, *status quo* as on today shall be maintained in all respects.

6. It is stated that the Contempt Case, which has been filed by the petitioners for violating the order, dated 30.09.2011, is pending before the Court and the same shall be withdrawn. It is further said that steps are already taken for posting of the Contempt Case before the Court for withdrawal.

7. For the aforesaid reasons, the Writ Petition is allowed. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

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**JUSTICE C. PRAVEEN KUMAR**

Date:08.12.2015

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