

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

* * *

WRIT PETITION No. 24014 of 2015

BETWEEN

Nadipi Vali Sab

... PETITIONER

AND

The State of Andhra Pradesh, Rep. by its Principal Secretary,
Revenue Department and others

...RESPONDENTS

Date of Order pronounced: 26.08.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? | Yes/No |
| 3. Whether his Lordship wish to see the
fair copy of the Judgment? | Yes/No |

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ORDER:-

Heard learned counsel for the petitioner; learned government pleader for Revenue appearing for respondent Nos.1 to 4; and Mr.K.Srinivas, learned counsel appearing for respondent No.5.

2. Though the matter is at the stage of consideration of vacate petition, with the consent of all the counsel, this writ petition itself is heard and being disposed of.

3. Petitioner claims that he purchased land in survey No.63/B to an extent of Ac.4-46 cents and survey No.64 to an extent of Ac.2-47 cents of Sammatageri Village, Holagunda Mandal, Kurnool District. Based on that, petitioner is stated to have been issued pattadar passbooks and title deeds. The fifth respondent sought cancellation of pattadar passbooks and title deeds in favour of the petitioner and approached the Mandal Revenue Officer (MRO), based on which the MRO issued notice in Rc.B.No.142/2014 dated 09.12.2014 directing the petitioner to appeal on 20.12.2014 with all relevant documents. While the petitioner submitted explanation and the matter was pending, the fifth respondent appears to have approached the District Collector, second respondent, by filing a representation and the District Collector under his proceedings No.D5/755/2015 dated 19.02.2015 directed the Revenue Divisional Officer (RDO) by forwarding the representation of the fifth respondent to the RDO to treat the said representation as an appeal under Section 5 of the A.P. Rights in Land and Pattadar Passbooks Act (for short 'the Act'). In view of the said direction, the RDO has issued notice Rc.E/588/2015 dated 10.06.2015 requesting the petitioner and the fifth respondent to appear before him. The said notice of the RDO is questioned in this writ petition and at the time of admission, after examining the record, this court passed the following order:

"The petitioner states that in pursuance of the notice issued by the 4th respondent in Rc.B.No.142/2014, dated 09.12.2014, he has already submitted detailed explanation, but no orders are passed so far.

Meanwhile, the 5th respondent has approached the District Collector, Kurnool, the 2nd respondent, who directed the 3rd respondent to enquire into the very same subject land. Based on that, the 3rd respondent issued the impugned notice to the petitioner.

The petitioner contends that when the 4th respondent has not passed any further orders, the 3rd respondent, as appellate authority, cannot enquire into

the same.

Hence, issue notice before admission to the 5th respondent.

Learned Government Pleader for Revenue takes notice for respondents 1 to 4 and seeks time to get instructions.

Learned counsel for the petitioner is permitted to take out personal notice to the 5th respondent by RPAD and file proof of service.

Pending further orders, the 3rd respondent shall not pass any orders in pursuance of the impugned notice, dated 10.06.2015, for a period of three weeks.

Post after two (2) weeks in motion list."

4. During the hearing of this writ petition, learned counsel for the fifth respondent fairly states that though the fifth respondent had approached the MRO, the MRO had no powers to review the pattadar passbooks once granted and hence the fifth respondent approached the second respondent and as per the directions of the second respondent, the proceedings are pending with the RDO.

Learned counsel, therefore, submits that the proceedings before the RDO, who is a competent authority, may not be interdicted and may be allowed to go on.

5. Evident from the above, the proceedings initiated by the fifth respondent before the MRO is not tenable as the MRO cannot review grant of pattadar passbooks, which was already granted to the petitioner. Secondly, however, the proceedings before the RDO also are not tenable in view of the ratio of decision of this court in **Basireddy Rukminamma v. Joint District Collector**^[1] as the appeal entertained by the RDO is merely on a representation of the fifth respondent. A Division Bench of this Court in **Sanepalli Nageswar Rao v. District Collector, Khammam**^[2] held that forwarding of representation to the RDO by the Collector to treat it as an appeal is illegal and that the RDO has no jurisdiction to dispose of such representation as an appeal.

6. In view of that, therefore, both the notices viz. the one issued by the MRO and the other by the RDO are quashed holding that both the said proceedings are not maintainable. However, this will not preclude the fifth respondent from filing a regular appeal before the RDO if he seeks to question the pattadar passbooks issued to the petitioner. If and when such appeal is filed the RDO shall consider the same on its own merits and pass

appropriate orders

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

VILAS V. AFZULPURKAR, J

August 26, 2015
LMV

[\[1\]](#) 2013(6) ALD 67

[\[2\]](#) 2002 (4) ALT 465 (DB)