

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

**WRIT PETITION Nos.41158, 41161, 41164, 41165, 41181, 41210,
41211, 41213 & 41215 OF 2015**

COMMON ORDER:

In all these Writ Petitions, the notices dated 09.11.2015 issued by the Revenue Divisional Officer, Peddapuram, East Godavari District, the 3rd respondent herein, is questioned primarily on the ground that under Section 5(B) of the Andhra Pradesh/Telangana State Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'the Act'), he has no power to entertain an appeal on the report of the Tahsildar, Prathipadu, East Godavari District, the 4th respondent herein.

It is contended by learned counsel for the petitioners that the very assumption in the report of the 4th respondent that the lands are assigned lands is factually incorrect and is opposed to the proceedings of the 4th respondent in Reference No.B/300/2012, dated 30.11.2014. Learned counsel would rely upon the conclusion in the said order that the lands in question are zeroiyati lands. Hence, it is contended that when the lands are zeroiyati lands and not assigned lands, the very report of the 4th respondent treating the said lands as assigned lands and the appeal entertained by the 3rd respondent based on the said report, is misconceived and is not tenable.

Learned Government Pleader for Revenue submits that the 3rd respondent has power to entertain an appeal under Section 5B(2) of the Act. He further submits that once the 3rd respondent is made aware of the fact that the subject lands are not assigned lands by the report of the 4th respondent, he can himself *suo motu* take appropriate action under Section 5(B)(2) of the Act and also submits that there is no reason why the impugned notices

are challenged by the petitioners, when they can as well appear before the 3rd respondent and submit their objections which they intend to.

I have heard learned counsel for the petitioners at length. However, I am unable to see any inherent lack of jurisdiction so as to quash the impugned notices issued by the 3rd respondent and entertain the appeal and call upon the petitioners to participate in the enquiry proposed.

The petitioners, undoubtedly, have liberty to raise their contentions on the maintainability of the proceedings before the 3rd respondent on merits and all such objections would be looked into and considered by the 3rd respondent while dealing with the appeal which he has entertained. All these questions are left open and both the parties are at liberty to take appropriate steps as they wish to take before the 3rd respondent. The 3rd respondent shall thereafter pass a reasoned order and communicate the same to the parties.

These Writ Petitions are accordingly disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these Writ Petitions shall stand closed.

VILAS V.AFZULPURKAR, J

19.01.2016

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