THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.22045 of 2011

ORDER:

The matter arises under Section 166-B of the A.P. (Telangana Area) Land Revenue Act 1317 Fasli.

2. The writ petitioners approached the third respondent with a prayer for rectification of entries in Sy.No.391 in an extent of 802 sq. yards situated at Fort Warangal (village) of Warangal Mandal. The revision filed by writ petitioners is taken on file as E3/8148/2005. In revision No.E3/8148/2005, the fifth respondent was arrayed as first respondent. On 11.05.2007, third respondent ordered the revision as follows:

> "In View of the above, the powers vested u/s 166-B of A.P. (T.A.) Land Revenue Act 1317 F., it is ordered that to remove the wrong entry from the year 1999-2000 onwards by removing the names of Mohd. Yakub Ali, S/o. Jamal Ahmed and Smt. Asifa Sultana, W/o. Azmat Ali and revise the record pertaining to the petitioners' land i.e. the names of Sri Bommineni Srinivas Reddy & Sri Bommineni Devender Reddy in Sy.No.391 of Fort Warangal (v). The Tahsildar, Warangal is hereby directed to take necessary action for rectification of entries as recorded above."

On 14.05.2007, the fifth respondent herein filed counter in revision case No.E3/8148/2005. On 11.06.2007, third respondent passed the following order:

> "I invite attention to the references cited. The Dist. Revenue Officer, Warangal has issued orders in this case on 11.5.2007. After issuing the orders, the Advocate for the deponent has

> filed counter on behalf of Asifa Sulthana & Mohd. Yakub Ali. A copy of the counter is enclosed herewith.
>
> Therefore, you are hereby directed not to take any action on basis of the orders issued vide reference 1st cited until further orders. Further, I request you to demarcate the lands in Sy.Nos.390, 391 & 392 of Fort Warangal by the Mandal Surveyor of your office and send the detailed report with location sketch map along with connected pahani extracts of above Sy.Nos. immediately.

Thereafter, on 02.06.2008, the third respondent disposed of revision with a few observations. The gist of the observations is that between parties to this *lis* a civil suit for declaration of title etc. is pending and the parties can work out their remedies in the pending suit. Therefore, the correction of entries can be carried out subject to the outcome of the adjudication in the pending civil suit. The petitioner aggrieved by order dated 02.06.2008 filed the writ petition.

3. Mr. P. Kesava Rao, appearing for petitioners, assails the assumption of jurisdiction by the third respondent after passing an order on 11.05.2007 as erroneous, unavailable and completely illegal. He further contends that the third respondent, by passing an order on 11.05.2007, ceases to have any further jurisdiction in the pending revision. Assuming without admitting that the order dated 11.05.2007 was *ex parte*, the remedy available to respondents before third respondent was to file further revision before the Government or taken steps by filing writ petition in this Court. By merely filing counter affidavit, the third respondent does not have jurisdiction, firstly, to recall the order dated 11.05.2007 and secondly, pass another order on 02.06.2008. As the revision was filed by writ petitioners, he fairly

concedes to the limited extent of setting aside even order dated 11.05.2007, restore the revision pending in case No.E3/8148/2005 before the third respondent and direct the third respondent to dispose of the same in accordance with law.

4. Mr. C.A.R. Seshagiri Rao contends that the order dated 11.05.2007, firstly, was stage-managed and *ex parte*, there is no prohibition in law to restore the pending revision because a counter affidavit was filed on 14.05.2007. The stand taken in the counter affidavit, for all purposes, relieves the third respondent from again exercising revisional jurisdiction and passing orders. According to him, the view expressed in the final order dated 02.06.2008 does not affect the rights of either parties and therefore, contends that on merits, the orders impugned in the writ petition do not warrant interference. Further, learned counsel fairly states that the record filed by petitioners or the information he has does not disclose that even for setting aside the order dated 11.05.2007, notice was issued to the revision petitioners or at any stage they were heard. Further, it is agreed such defect is incurable and he has no objection for restoring the revision filed by writ petitioners pending in case No.E3/8148/2005 and requests the Court to direct the third respondent to give opportunity to both parties, take note of objections and dispose of the same within a reasonable period.

5. Having regard to the submissions of learned counsel appearing for parties and the admitted position that the orders dated 11.05.2007 and 11.06.2007 are *ex parte* orders and are liable to be set aside. Consequently, the order passed by third respondent on 02.06.2008

will not have independent legs to stand and is set aside. The revision filed by petitioners pending in case No.E3/8148/2005 is restored to file, the third respondent is directed to dispose of the revision within four (4) weeks from the date of receipt of a copy of this order. This Court has not, on merits, considered the findings recorded by third respondent in order dated 02.06.2008. However, it is made clear that once revision is restored, the entire issue is to be considered afresh and findings recorded in accordance with law.

The writ petition is ordered as indicated above. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

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S. V. BHATT, J

September 15, 2016
Note: Furnish C.C. in two (2) days.
(B/o) DSK