

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

W.V.M.P.No.4293 of 2011 in W.P.No.24980 of 2009
&
W.P.No.24980 of 2009

03-03-2017

S.Kamalamma and others

...Petitioners

VERSUS

The Joint Collector cum Settlement Officer, Chittoor, Chittoor District and others
...Respondents

Date of Judgment pronounced on : -03-2017

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

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

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.V.M.P.No.4293 of 2011 in W.P.No.24980 of 2009
&
W.P.No.24980 of 2009

% 03-03-2017

S.Kamamma and others

...Petitioners

VERSUS

\$ The Joint Collector cum Settlement Officer, Chittoor, Chittoor District and
others

...Respondents

< GIST:

> HEAD NOTE:

! Counsel for the Petitioners : Sri A.Chandraiah Naidu

^ Counsel for the respondents : Government Pleader for Revenue

? Cases referred:

1. (1968) 1 A.L.T. 1 (NRC)
2. 2001 (6) ALT 182
3. 1993 Supp (4) S.C.C. 595
4. 2011 (2) ALD 147 (DB)
5. 2011 (5) ALD 470 (DB)
6. 2001 (5) ALD 828
7. (2006) 3 S.C.C. 549
8. (1994) 1 S.C.C 1
9. (2007) 4 S.C.C. 221
10. (2008) 12 S.C.C. 306
11. (2006) 3 S.C.C. 549

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

W.V.M.P.No.4293 of 2011 in W.P.No.24980 of 2009

&

W.P.No.24980 of 2009

ORDER :

This Writ Petition has been filed by the petitioners assailing order dt.04-08-2009 in proceedings Rc.No.F1/12101/90 of the 2nd respondent, to quash the same as being without jurisdiction, arbitrary and *mala fide* and contrary to the order of this Court in W.A.No.2322 of 2003 and to direct the respondents to implement the said orders by issuing pattadar passbook and title deed to the petitioners.

THE UNDISPUTED FACTS:

II. The following facts are undisputed.

a) One S.Ramanaiah is the husband of the 1st petitioner and the father of petitioner Nos.2 and 3. S.Ramaiah is the father of S.Ramanaiah.

b) S.Ramaiah was inducted into possession of an extent of Ac.9.00 cts covered by Paimaish No.196 co-related to R.S.No.251/1 of Vedantapuram village, Chittoor District by Sri Prayag Das Ji, Mahant of Sri Hathiramji Matt under a *Saswatapatta* dt.05-03-1943. S.Ramaiah died in 1978. S.Ramanaiah continued to be in possession of the property.

c) In 1978, S.Ramanaiah filed a petition under Section 11 (a) of the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short 'the Act') before the Settlement Officer alleging that since he was suffering from paralysis he could not apply for the same in time and seeking patta under the said Act.

d) The Settlement Officer, Nellore by name A.D.V. Reddy granted to S.Ramaniah, a ryotwari patta under Section 11 (a) of the Act vide proceedings S.R.No.81/11 (a)/81 dt.19-01-1982 in respect of the extent of Ac.9.00 cts in Sy. No.251/1 of Vedantapuram village, Tirupathi Rural Mandal.

e) The Settlement Officer relied on the said *Saswatha patta* dt.05-03-1940, cist receipts dt.05-06-1045, dt.02-01-1947, dt.10-12-1946 produced by S.Ramaniah, apart from oral evidence of the Trione Officer and Ex-Village Munsif of Vedantapuram who worked as such between 1937 to 1952 as well as a counter affidavit filed by the Tahsildar, Chandragiri. This was implemented in the revenue records and pattadar pass book was issued in 1983 to S.Ramanaiah under the A.P.Rights in Land and Pattadar Pass Books Act, 1971.

f) However, the Director of Settlements exercised suo motu powers of Revision in 1984 and sought to cancel the said patta , on the following grounds:

(i) Patta was granted on the basis of the claim and documents filed without examining the pre-abolition records and verifying whether the claimant or his vendor was in physical occupation and enjoyment of the lands prior to 1-7-1945.

(ii) Notice of enquiry was not served on the Tahsildar who is to safeguard the public interest.

(iii) Cist receipts alone are not sufficient to hold that the grantee is eligible for Ryotwari patta unless they are coupled with any recorded evidence of the estate regime and

(iv) No documentary evidence of pre-abolition estate accounts was produced in support of the claim in the absence of which the 'genuineness of the cist receipts and other documents is not free from doubt.'

g) Smt.Vanajakshamma, a third party, got impleaded in the Revision and claimed an extent of Ac.5.00 cts in Sy. No.251/1 on the ground that she was granted *eksal* patta. She alleged that she is in possession of the land.

h) Vide proceedings R.P.No.251/84H1 dt.30-04-1990, the Director of Settlements set aside the orders of the Settlement Officer, Nellore on the basis that the land for which patta had been granted to S.Ramaniah was Swarnamukhi river *poram boke*.

According to petitioners, this was done relying on photo copies of some documents submitted by the Government Pleader during the arguments and without considering the documents relied upon by the 1st petitioner's husband S.Ramanaiah.

i) Challenging the said order of the Director of Settlements in R.P.No.251/84 dt.30-04-1990, S.Ramanaiah filed Revision Petition under Section 7 (d) of the Act before the Commissioner, Appeals, Office of the Chief Commissioner of Land Administration, A.P., Hyderabad.

j) The Commissioner, Appeals, vide order dt.28-08-2000 in proceedings No.P3/1500/90, allowed the said Revision and set aside the order of the Director of Settlements. He noted that the above land lies in Vedantapuram village of Tirupathi Rural Mandal in Chittoor District, that it is an inam estate village taken over by the Government on 02-07-1952 under the provisions of the Act. He perused the Saswatha Patta dt.05-03-1943 and held that the S.Ramaiah, father of S.Ramanaiah, was inducted into possession and enjoyment of the land covered by Paimaishi No.196 of the village by Hathi Ramji Mutt within specific boundaries; that the certified copy of the adangal of the village issued by the Tahsildar, Chandragiri, which was filed before the Director of Settlement, also revealed that he cultivated the land by raising paddy during 1356 Fasli to 1358 Fasli; and that he also paid cist to the land holder during the pre-abolition period and land revenue to the Government during the post-abolition period. He held

that pattadar pass book also revealed that the Government recognized the possession and enjoyment of S.Ramanaiah over the subject land and he and his father were in continuous possession and enjoyment of the land from 1943 onwards. He also noted that in the counter affidavit filed by the Tahsildar, Chandragiri, he had mentioned that the land claimed by S.Ramanaiah is situated 300 meters away from Swarnamukhi river course which is on the south side on the field, that the land is ryoti in nature and is under regular dry crop cultivation. He concluded that the land is far away from the river course of Swarnamukhi river, that it is not required for communal purposes, that it is ryoti in nature and was under regular cultivation of S.Ramanaiah and that the Settlement Officer, Nellore had granted ryotwari patta to him after conducting detailed enquiry as required under law. He held that it was not proper for the Director of Settlements to set it aside the patta granted eight years later in 1990, and as per decision dt.20-03-1992 in W.P.No.16482 of 1990, exercise of *suo motu* power by Director of Settlements, is bad in law. He held that neither the Tahsildar or the M.R.O., Tirupathi Rural ever filed a Revision either before Director of Settlements or the then Commissioner, Survey Settlements and Land Records to revise or modify the order of the Settlement Officer, Nellore granting patta to S.Ramanaiah, and this indicates that Government interests were not involved in the schedule land. He also relied upon the judgment in A.S.No.46 of 1991 of the IV Additional District Judge, Tirupathi, arising out of O.S.No.342 of

1985 filed by S.Ramanaiah before the I Additional District Magistrate, Tirupathi against one A.Ankayya and 4 others for permanent injunction, which was decreed by the trial Court and noted that the appeal by defendants against the said judgment, was dismissed. He held that this also indicates that S.Ramanaiah was in continuous possession and enjoyment of the land and the land and ryoti land. He rejected the claim of Smt.Vanajakshamma.

k) The Mandal Revenue Officer, Tirupathi Rural Mandal, Chitoor District, filed W.P.No.22069 of 2003 before this Court. He specifically contended that the documents relied upon by S.Ramanaiah are not genuine. By order dt.21-10-2003, the said Writ Petition was dismissed and this contention was rejected stating that the Commissioner, Appeals, Office of the Chief Commissioner of Land Administration, Nampally, Hyderabad gave valid reasons and Writ Petition was filed without giving any plausible reason for filing it three years after such order was passed making an omnibus statement that documents relied upon by S.Ramanaiah were not genuine. It was also held that no illegality or legal infirmity in the order of the Commissioner was pointed out by the petitioner and that the Commissioner had passed an order basing on appreciation of evidence.

l) The Mandal Revenue Officer, Tirupathi Rural Mandal, Chitoor District then preferred an appeal W.A.No.2322 of 2003 to a

Division Bench of this Court. Pending appeal S.Ramanaiah died and the petitioners were impleaded as his legal representatives.

m) In the said appeal also, the learned Government Pleader contended that the grant of patta to S.Ramanaiah was not valid and that the Director of Settlements had rightly held that cist receipts produced by S.Ramanaiah were not genuine and there was a delay on his part in approaching the Settlement Officer for grant of patta. It was also asserted that the land was part of river poramboke, therefore, non-ryoti and grant of patta was illegal. The Division Bench dismissed the appeal by order dt.31-03-2009 holding that the Tahsildar, Chandragiri himself filed a counter before the Settlement Officer confirming that the land in question is ryoti land, 300 meters away from the river and so it cannot be part of river poramboke. It held that the Commissioner had considered all aspects of the matter and rightly came to the conclusion that there were no reasons to disbelieve to enquiry proceedings before the Settlement Officer including admissions of the then Tahsildar. It was held that no material was filed to contradict the counter of the Tahsildar and it was only on the basis of statement of the Mandal Revenue Officer that it is sought to be contended that the land is not ryoti land. It also held that there was no limitation prescribed for seeking patta under Section 11 of the Act; so mere delay would not disentitle S.Ramanaiah for grant of patta; and grant of patta by Settlement Officer cannot be faulted and the Commissioner had rightly confirmed the same.

THE CURRENT LITIGATION:

III. (a) S.Ramanaiah had filed an application in 1990 before the Tahsildar, Tirupati Rural Mandal, Chittoor District for issuance of Patadar pass book and title deeds under AP Rights in Land and Pattadar Passbooks Act, 1971.

(b) After the Writ Appeal No.2322 of 2003 was dismissed on 31-03-2009 by the Division Bench of this Court, the petitioners who are the legal representatives of S.Ramanaiah, pursued the matter and brought to the notice of the Tahsildar, Tirupati Rural Mandal about the said decision and sought issuance of pattadar pass book and title deed under the above Act.

(c) The Tahsildar, Tirupati Rural, requested the Joint Collector, Chittoor for necessary instructions in this regard on 04-07-2009.

(d) Thereupon, the Joint Collector, Chittoor, passed the impugned order purporting to exercise power as Revisional Authority under the A.P.Rights in Land and Pattadar Pass Books Act, 1971 and set aside the ryotwari patta granted to S.Ramanaiah by the Settlement Officer, Nellore under the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948.

(e) He held that the entire land in Sy. No.251 of Vedantapuram village was classified as Swarnamukhi river and vested in Government free from all encumbrances under Section 3 (b) of the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948; all ryotwari pattas and orders of settlement authorities or any authority in relation to Sy. No.251 are bogus, created, fabricated and null and void and it has to be held that such authority had colluded with the claimants; that all forged and fake entries made in the fair adangal as against Sy. No.251 are cancelled; the Tahsildar, Tirupati, should take action under the Andhra Pradesh Rivers Conservancy Act, 1884; that the Revenue Divisional Officer, Tirupati and the Tahsildar, Tirupati should take action for eviction of petitioners and make necessary changes in the village accounts; and to erect boards informing the public about the status of the land and warning them not to encroach upon the land. He also directed the records produced by the petitioners be sent for forensic examination so that criminal action can be initiated against them.

IV. Assailing the same, the present Writ Petition has been filed.

V. In W.P.M.P.No.32519 of 2009, a learned Single Judge of this Court on 18-11-2009 granted interim suspension of the impugned order. W.V.M.P.No.4293 of 2011 was filed by the respondents to vacate the same. The said W.V.M.P. was posted along with the Writ Petition for hearing and the order was not vacated.

The Contentions of the Learned Counsel for the Petitioners:

VI. The learned counsel for the petitioners contended:

(a) Once the grant of ryotwari patta under Section 11 (a) of the Act to S.Ramaniah had attained finality by virtue of the orders passed by the Division Bench on 31-03-2009 in W.A.No.2322 of 2003, the Joint Collector cannot interpret, revise or review or point out that issuance of patta was not valid and this amounts to contempt of the order of the High Court.

(b) Having raised the plea before the learned Single Judge in W.P.No.22069 of 2003 and in W.A.No.2322 of 2003 that the documents produced by S.Ramaniah were not genuine and failed, the said issue cannot be re-agitated by the Tahsildar, Tirupati Rural Mandal before the Joint Collector and it is barred by the principle of *res judicata*.

(c) The Joint Collector, Chittoor, while exercising power as Revisional Authority under Section 9 of the AP Rights in Land and Pattadar Pass Books Act, 1971 cannot give any opinion on the grant of ryotwari patta to S.Ramaniah under Section 11 (a) of the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948. He had absolutely no jurisdiction to do so.

(d) When the Division Bench in W.A.No.2322 of 2003 held that the Commissioner, Appeals, Office of the Chief Commissioner of Land Administration in his proceedings No.P3/1500/90 dt.28-08-2000

had considered the evidence of P.Ws.1 and 2 as well as Exs.P-1 to P-4 filed by S.Ramanaiah apart from the counter filed by the then Tahsildar, Chandragiri, and came to the conclusion that the extent of Ac.9.00 cts in Sy. No.251 of Vedantapuram village was not part of the river *poramboke* of Swarnamukhi river and that the enquiry before the Settlement Officer has to be believed, the Joint Collector cannot state that the patta granted by the Settlement Officer, is null and void or that the documents produced by S.Ramaniah before the Settlement Officer were fake.

(e) He relied upon the decisions in **R.Muniratnam Naidu Vs. Assistant Settlement Officer, Chittoor¹, Chatrati Mallikarjuna Rao (died) per L.Rs. and others Vs. Government of A.P., Revenue Department and others² and S.Nagaraj and others Vs. State of Karnataka and Another³.**

CONTENTIONS OF THE GOVERNMENT PLEADER:

VII. In the counter affidavit filed by the Tahsildar, Tirupati Rural Mandal the facts up to the filing of W.A.No.2322 of 2003 by the Mandal Revenue Officer, Tirupati Mandal and its dismissal on 31-03-2009 were not disputed.

(a) It is however contended that the land in Sy.No.251 admeasuring Ac.200.68 cts was classified as “Swarnamukhi river

1. (1968) 1 A.L.T. 1 (NRC)
2. 2001 (6) ALT 182
3. 1993 Supp (4) S.C.C. 595

poramboke” , that it vested in the Government and Ac.34.00 cts out of it, was set apart for purpose of formation of Cooperative Joint Farming Societies (CJFS) in favour of Harijan Development Corporation in 1973; that the river has got interstate interest and was the natural source of drinking water to poor villagers, cattle and birds; and no individual can claim any right over such a water body.

(b) Since the land is communal Government poramboke, possession of the petitioners is only an encroachment and they were not rightly inducted into possession. Even the Hathiramji Matt has no right in the land as no patta was claimed by it under the Act. As the land was non-ryoti in nature, there cannot be any cultivation of it.

(c) As per G.O.Ms.No.50 Revenue Department dt.16-01-1974, the Settlement Officer ought to have rejected the claim for patta under Section 11 (a) of the Act by S.Ramanaiah and it could not have considered the claim after 08-03-1974.

(d) The Settlement Officer A.D.V. Reddy and two others who functioned in the said post between 1980 to 1988 facilitated grabbing of valuable Government lands; that the subject land could not have been held to be ryoti land when it is river poramboke; and this Court also commented on his conduct in **Divisional Forest Officer, Eluru Vs. District Judge, West Godavari, Eluru and others⁴, Government of Andhra Pradesh and others Vs. P.Gopala Reddy**

4. 2011 (2) ALD 147 (DB)

and others⁵, Writ Appeal Nos.1333 of 2012 and 1354 of 2012 and in Director of Settlements and others Vs. Neerupaka Rama Krishna⁶.

(e) In addition to the above, the Government Pleader also contended that the Supreme Court had emphasised conservation of rivers in **Intellectuals Forum, Tirupathi Vs. State of A.P. and others⁷** and that orders obtained by playing fraud have to be treated as nullity in view of the decisions in **S.P.Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. and others⁸, A.V.Papayya Sastry and others Vs. Government of A.P. and others⁹, Behari Kunj Sahkari Avas Samiti Vs. State of Uttar Pradesh and others¹⁰.**

CONSIDERATION BY THE COURT:

VIII. (a) I have already noted that the Settlement Officer A.D.V.Reddy granted patta under Section 11 (a) of the Act to S.Ramaniah vide proceedings S.R.No.81/11 (a)/81 dt.19-01-1982. The Director of Settlements set aside the same exercising *suo motu* Revisional powers in his order dt.30-04-1990 in R.P.No.251/84.

(b) This was questioned by the S. Ramaniah before the Commissioner, Appeals, Office of the Chief Commissioner of Land

5. 2011 (5) ALD 470 (DB)
6. 2001 (5) ALD 828
7. (2006) 3 S.C.C. 549
8. (1994) 1 S.C.C 1
9. (2007) 4 S.C.C. 221
10. (2008) 12 S.C.C. 306

Administration in Commissioner, Appeals proceedings No.P3/1500/90 under Section 7 (d) of the Act. The said Revision was allowed on 28-08-2000.

(c) The Commissioner, Appeals, considered the evidence on the basis of which the Settlement Officer, Nellore granted ryotwari patta to S.Ramanaiah including certified copy of adangal of the village issued by the Tahsildar, Chandragiri, the Saswatha Patta dt.05-03-1943 issued by the Hathiramji Mutt to S.Ramanaiah's father, cist receipts dt.02-01-1947, 05-09-1946 and 12-10-1946 for the pre-abolition period apart from land revenue receipts for the post abolition period and the counter affidavit of the Tahsildar, Chandragiri that the land claimed by S.Ramanaiah is in Sy. No.251/1 of Vedantapuram village and it is 300 meters away from the actual river course on the ground and it is ryoti in nature. He also held that it is not required for communal purpose and so the order of the Director of Settlements is not valid and the order of the Settlement Officer granting patta to S.Ramanaiah was valid.

(d) It may be that the Settlement Officer A.D.V. Reddy was found in some cases cited by the Government Pleader for Revenue to have acted in collusion with claimants for pattas. But that does not mean that when the Commissioner, Appeals, on independent appreciation of the evidence adduced before the Settlement Officer by S.Ramaniah, comes to the same conclusion as the Settlement Officer did, still the order of Settlement Officer cannot be doubted. It is the

not the case of the Government Pleader that the Commissioner, Appeals, also had a tainted reputation or that he had not acted in a *bona fide* manner.

(e) The M.R.O, Tirupati Rural Mandal, filed W.P.No.22069 of 2003 and specifically contended that documents relied upon by S.Ramanaiah were not genuine. The learned Single Judge of this Court in W.P.No.22069 of 2003 did not accept the said contention and held that the Commissioner, Appeals had considered the entire evidence and passed the order on 28-08-2000 and without giving any reason for the delay of three years in filing the Writ Petition, on the basis of such omnibus statement, the Writ was filed. He also held that there was no manifest illegality or legal infirmity in the order of the Commissioner.

(f) The Writ Appeal No.2322 of 2003 filed by the M.R.O., Tirupati Rural challenging the order of the learned Single Judge was also dismissed on 21-03-2009. Even before the Division Bench, the Government Pleader had contended that the documents produced by S.Ramanaiah before the Settlement Officer were not genuine. But the Bench also rejected the said contention and held that the Tahsildar, Chandragiri had filed counter before the Settlement Officer stating that the lands in question were ryoti lands which were 300 meters away from the river course and so it cannot be said that the subject land was part of river poramboke and not eligible for grant of patta. It held that no material was placed before it to contradict the counter of

the Tahsildar and only on the basis of the statement of the Mandal Revenue Officer, it is being contended that the land is not ryoti land. It held that the Commissioner, Appeals, considered these aspects and found no reason to disbelieve the enquiry proceedings before the Settlement Officer including admissions in the counter of the Tahsildar. It also held that the plea of long delay on the part of the claimant for patta under the Act raised by the Government is not tenable in view of the fact that no limitation was prescribed under the Act.

(g) Thus the attempt on behalf of the State through its Mandal Revenue Officer, Tirupathi Rural Mandal to have the ryotwari patta granted to late S.Ramanaiah on the ground that it was obtained by producing documents which were not genuine failed in the High Court, both before the learned Single Judge and the Division Bench.

(h) Therefore, it was not open to the Joint Collector, Chittoor in the impugned order to again seek to contend that petitioners or S.Ramanaiah produced forged and fake documents for securing the patta from the Settlement Officer.

(i) There is no dispute with the proposition put forth by the Government Pleader for Revenue that fraud vitiates all actions and that no judgment of a Court, and no order of an authority can be allowed to stand if it had been obtained by fraud (**Behari Kunj Sahkari Avas Samiti** (10 supra)). There is also no dispute that such

order would be *non-est* or a nullity and it will not have any binding force. (**A.V.Papayya Sastry and others** (9 supra)) and it can even be questioned in collateral proceedings (**S.P.Chengalvaraya Naidu** (8 supra)).

(j) However, if the plea of fraud was also raised in the earlier proceedings before this Court and had been rejected upholding the patta granted by the Settlement Officer, Nellore, then it cannot be said that the issue can again be raised by the Joint Collector in the impugned order and hold that issuance of patta to S.Ramanaiah is vitiated by fraud.

(k) In **Chatrati Mallikarjuna Rao** (2 supra), a learned Single Judge of this Court held in similar circumstances that if plea of fraud was raised in the earlier litigation, but it was not accepted, the said decision operates as *res judicata* and precludes the respondents from re-agitating the said issue.

(l) Also the decision in W.P.No.22069 of 2003 as confirmed in W.A.No.2322 of 2003 clearly binds the State particularly since the order dt.28-08-2000 in proceedings P-3/1500/90 of Commissioner, Appeals, Office of the Chief Commissioner, Land Administration, Hyderabad, held on independent consideration of evidence produced before the Settlement Officer by S.Ramanaiah that the documents produced by S.Ramanaiah are genuine. He is an officer superior in rank to the Joint Collector (who has passed the impugned order) and is

the Revisional Authority under Section 7 (d) of the A.P.(Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 apart from being the highest statutory authority the Act. He is a party to both the above Writ Petition as well as Writ Appeal. His integrity has not been questioned by the respondents though the integrity of the Settlement Officer, A.D.V. Reddy, is no doubt questioned by them.

(m) In **S.Nagaraj** (3 supra), the Supreme Court has held that if an order has been passed by a Court which had jurisdiction to pass it, then any error or mistake in it can only be corrected by a higher Court or by an application for clarification, modification or recall of the order and not by ignoring it by any authority actively or passively or disobeying it expressly or impliedly. It held that even if the orders had been improperly obtained, the authorities cannot assume on themselves the role of substituting it or clarifying it or modifying it as they consider proper. It observed:

“Any order passed by a court of law, more so by the higher courts and especially this Court whose decisions are declarations of law are not only entitled to respect but are binding and have to be enforced and obeyed strictly. No court much less an authority howsoever high can ignore it. Any doubt or ambiguity can be removed by the court which passed the order and not by an authority according to its own understanding.”

It quoted with approval the passage in Halsbury's Laws of England (4th Edition, Volume-9, P-35, para-55) which stated the law on orders improperly obtained:

“The opinion has been expressed that the fact that an order ought not to have been made is not a sufficient excuse for disobeying it, that disobedience to it constitutes a contempt, and that the party aggrieved should apply to the court for relief from compliance with the order.”

In my opinion, this judgment applies on all fours to the instant case.

(n) Learned Government Pleader for Revenue contended that the land in respect of which ryotwari patta was granted to S.Ramanaiah by the Settlement Officer, Nellore is part of Swarnamukhi river poramboke, and that the Supreme Court of India in **Intellectuals Forum , Tirupathi Vs. State of A.P. and others**¹¹ had held that rivers and water bodies must be protected. This plea is untenable for the reason that the then Tahsildar, Chandragiri, had filed a counter affidavit before the Settlement Officer, Nellore that the land claimed by S.Ramanaiah is 300 meters away from the actual river course. This affidavit was relied upon not only by the Settlement Officer, but also by the Commissioner, Appeals in his order dt.28-08-2000 in proceedings P3/1500/90 but also by this Court in W.P.No.22069 of 2003 and in W.A.No.2232 of 2003. The Division Bench in the Writ Appeal had accepted the said affidavit and given a finding that the land claimed by S.Ramanaiah for grant of ryotwari patta is not part of river poramboke and was eligible for grant of patta. This finding operates as *res judicata* and cannot be re-agitated in this Writ Petition by the respondents.

11. (2006) 3 S.C.C. 549

(o) A further contention was raised by the Government Pleader that S.Ramanaiah's application for ryotwari patta was highly belated since the estate had been taken over by the Government on 02-07-1952 under the Act. He placed reliance on the Division Bench judgment of this Court in **P.Gopal Reddy** (5 supra). He contends that in the said decision, it was held that the Settlement Officer is not empowered to admit any claim after 08-03-1974 for grant of ryotwari patta in view of G.O.Ms.No.50 dt.16-01-1974 and that authorities have to exercise power within reasonable time. This plea has no legs to stand in view of the finding by the Division Bench in W.A.No.2322 of 2003 to which the Commissioner, Appeals as well as Settlement Officer and petitioners are parties that the AP (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 did not prescribe any period of limitation to entertain the claim for/or seek ryotwari patta. This is a finding *inter partes* and also operates as *res judicata*.

(p) Therefore, the action of the Joint Collector, Chittoor in holding that the ryotwari patta granted to S.Ramanaiah under Section 11 of the Act by practically sitting in appeal over the decision of the Division Bench of this Court in W.A.No.2322 of 2003, observing that S.Ramanaiah produced fake documents to obtain it from the Settlement Officer, and going to the extent of directing criminal action against the petitioners, constitutes contempt of the orders passed by the Division Bench in W.A.No.2322 of 2003. His conduct in insisting that the Settlement Officer's action in granting patta to S.Ramanaiah

is 'dubious', even though the Commissioner, Appeals in his proceedings P3/1500/90 dt.28-08-2000 independently appreciated the material produced by S.Ramanaiah before the Settlement Officer and upheld the grant of patta, amounts to gross insubordination, warranting initiation of disciplinary proceedings against him.

(q) The more shocking aspect of the matter is that the Joint Collector, Chittoor, according to the learned Government Pleader for Revenue acted as Revisional Authority under the AP Rights in Land and Pattadar Pass Books Act, 1971. How, as Revisional Authority under this Act, he can comment on or refuse to accept the ryotwari patta granted to S.Ramanaiah under the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948, by incorporating the same in the revenue records, is wholly inexplicable and the Government Pleader could not give any satisfactory explanation for the same.

IX. For all the aforesaid reasons, the Writ Petition is allowed; the impugned order Rc.F1/12109/90 dt.04-08-2009 of the 1st respondent is set aside with costs of Rs.20,000/- to be paid by the respondents to the petitioners; and direction is issued to the respondents to issue pattadar pass book and title deed to the petitioners under the AP Rights in Land and Pattadar Pass Books Act, 1971 within six weeks from the date of receipt of a copy of this order. The 4th respondent, shall take note of the above conduct of the 1st respondent who passed the impugned order and the findings in this

order, and initiate appropriate disciplinary proceedings against the said official and any other officials found responsible for the same.

X. Miscellaneous applications pending if any in this Revision shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 03-03-2017

Mark the L.R. copy. Yes

B/o.

Kvr

