**THE HON'BLE SRI JUSTICE P. NAVEEN RAO**

**WRIT PETITION No.26010 of 2017**

**ORDER:**

Petitioner claims to be owner of land to an extent of Acs.2.05 guntas in Survey No.774 of Duddeda Village, Kondapaka Mandal, Siddipet District, having purchased the same through registered sale deed, dated 20.01.1989 from his vendor for a valid sale consideration. He claims to be in possession and enjoyment of the said property. He applied for mutation of his name in the revenue records. By endorsement, dated 07.03.2017, Tahsildar, Kondapaka Mandal, respondent No.3, rejected the request of petitioner. Such rejection is based on a report obtained from the Village Revenue Officer, Duddeda.

2. Learned counsel for petitioner contends that as per proviso appended to Section 5(1) of Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'), before rejecting the request, the person making such request must be given an opportunity of making his representation in that behalf, whereas there was no such intimation. He also submits that the report of Village Revenue Officer was not furnished to petitioner.

3. A reading of proviso appended to Section 5(1) of the Act makes it clear that a person who gave intimation for amendment in the revenue records must be given an opportunity of making his representation on the *prima facie* reason of rejecting the request.

4. In the instant case, no such opportunity was given to petitioner before the decision was taken. Further more, it appears, the report of Village Revenue Officer was not furnished to petitioner.

5. At this stage, learned Assistant Government Pleader sought to contend that as per Section 5(5) of the Act, appeal shall lie against any order of Tahsildar. This also being an order of Tahsildar, petitioner ought to have availed the remedy of appeal before invoking the jurisdiction of this Court.

6. Ordinarily, a person cannot straight away invoke the jurisdiction of this Court, when he has statutory remedy available and no doubt, statutory remedy is available against the decision of Tahsildar but as noticed from the proviso appended to Section 5(1) of the Act, prior opportunity is required to be afforded to the person applying for correction of revenue records, but no such opportunity was afforded to petitioner.

7. Having regard to the clear irregularity noticed, this Court is of opinion that order impugned is not sustainable in law. Therefore, this Court is not inclined to relegate petitioner to avail the remedy of appeal.

8. Thus, order under challenge is set aside and the matter is remitted to respondent No.3 directing him to cause notice on petitioner and furnish copy of the report of Village Revenue Officer, and on receipt of explanation, if any, submitted by petitioner, respondent No.3 shall pass appropriate orders as warranted by law, within four weeks thereafter.

9. The writ petition is allowed accordingly.

Pending miscellaneous applications, if any, shall stand closed in consequence.

**P. NAVEEN RAO, J**

4th AUGUST, 2017.

*kvni*