THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.12291 OF 2005

ORDER:

This writ petition is filed challenging the order of the District Revenue Officer, Karimnagar, first respondent herein, in No.D1/4467/2001, dated 18.01.2005, confirming the order of the Revenue Divisional Officer, Peddapalli, Karimnagar District, second respondent herein, in File No.H/203/2001, dated 12.04.2001, directing the Mandal Revenue Officer, Ramagundam, third respondent herein, to incorporate the names of respondent Nos.4 and 5 herein in place of the petitioners, in respect of land admeasuring Ac.1-33 guntas in Sy.No.167 of Malkapoor Village, Ramagundam Mandal, Karimnagar District.

2. The case of the petitioners is as follows:

The petitioners purchased the subject land from one Mekala Lachaiah @ Chinna Lachulu, S/o. Komuraiah under three registered sale deeds dated 06.04.1981 vide document No.1246/1981, dated 06.04.1981 vide document No.1247/1981 and dated 18.08.1981 vide document No.4612/1981. Thereafter, their names have been mutated in the revenue records and they have been in possession and enjoyment over the subject land. While so, respondent Nos.4 and 5 herein submitted an application before the third respondent stating that their grandfather was the owner of the subject land; that he gifted the subject property to them in the year 1983; that since then, they have been in possession and enjoyment over the subject land; that Mekala

Lachaiah @ Chinna Lachulu had no right to sell the subject land to the petitioners; that at that juncture, the petitioners filed O.S.No.5 of 1997 on the file of the Court of Senior Civil Judge, Peddapalli for perpetual injunction in respect of the subject land against respondent Nos.4 and 5 and the same was dismissed for default on 21.01.2000; that therefore requested the third respondent to mutate their names in the revenue records in respect of the subject land by deleting the names of the petitioners. Upon such application, the third respondent addressed a letter dated 20.01.2001 to the second respondent requesting him to accord permission for incorporating the names of respondent Nos.4 and 5 in place of the petitioners, in view of the dismissal of suit in O.S.No.5 of 1997. In pursuance of the letter of the third respondent, the second respondent, has taken file on record and proceeded with the case under the garb of implementation of order of the Senior Civil Judge, Peddapalli in O.S.No.5 of 1997. The petitioners stated that after dismissal of the suit for default, they filed I.A.Nos.587 and 588 of 2000 for restoration of the suit and the same are pending. The second respondent, without considering the legality of the Court order, summoned both the parties and passed the order dated 12.04.2001, according permission to the third respondent to make necessary entries in the revenue records in respect of the subject land by incorporating the names of respondent Nos.4 and 5 as successors of late Mekala Lachiaiah. Challenging the order of the second respondent dated 12.04.2001, the petitioners herein filed an appeal before the first respondent under Section 158 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli. The first respondent, by his order vide Ref.No.D1/4467/2001, dated 30.05.2003, dismissed the appeal, confirming the order of the second respondent. Challenging the said order, the petitioners filed W.P.No.25430 of 2003 stating that the orders dated 12.04.2001 and 30.05.2003 have been passed by the same Revenue Officer first in the capacity of Mandal Revenue Officer and then in the capacity of District Revenue Officer and the signatory to both orders is one and the same person. This Court, by order dated 30.08.2004, allowed the said writ petition, setting aside the order of the then first respondent dated 30.05.2003 and remanded the matter to the first respondent for fresh consideration. On such remand, the first respondent has taken up the matter and by impugned order dated 18.01.2005, dismissed the appeal, confirming the order of the second respondent. It is also stated that during the pendency of case before the first respondent, respondent Nos.4 and 5 also filed a suit in O.S.No.87 of 1999 on the file of the Court of Junior Civil Judge, Peddapalli against the petitioners herein for declaration of title and questioning the validity of the registered sale deeds of the petitioners. For various reasons, the suit was renumbered as O.S.No.32 of 2002 and again as O.S.No.33 of 2003 and the petitioners also filed their counter-claim. During the pendency of the said suit, the present writ petition was filed.

3. Though the matter is of the year 2005, no counter-affidavit has been filed by official respondents as well as unofficial respondents.

4. Heard.

5. Learned counsel for the petitioners submits that the petitioners purchased the subject land under the supra stated sale deeds, in pursuance of which, the names of the petitioners were mutated in the revenue records i.e., in Jamabandi. After lapse of 20 years from the date of entries made in Jamabandi, respondent Nos.4 and 5, without establishing their rights and locus to said lands, have filed petition for change of their names in the revenue records, which is not maintainable. He further submits that if a party aggrieved by any entry under Sections 3 to 5 of the Rights in Land and Pattadar Pass Books Act, 1971 (for short, the Act) in the revenue records, the only remedy available is under Section 9 of the Act and that regarding title challenging of sale deeds, the remedy is to seek appropriate relief in a civil Court. In support of his contentions, he relied on a decision of this Court in **Sannepalli Nageswar Rao v. Dist. Collector, Khammam[1].** He further submits that respondent Nos.1 and 2, without considering the lis pending in the civil Court, proceeded in the matter and incorporated the names of respondent Nos.4 and 5 in respect of subject land. He furnished a copy of the judgment and decree dated 25.07.2016 in O.S.No.33 of 2003 on the file of the Court of

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[1] 2002 (4) ALT 465 (D.B)

Junior Civil Judge, Peddapalli, wherein the suit filed by respondent Nos.4 and 5 herein was dismissed and the counter claim of the petitioners herein was decreed, and submits that in pursuance of the said judgment and decree, the orders of respondent Nos.1 and 2 are liable to be set aside.

6. Learned counsel for respondent Nos.4 and 5 submits that respondent Nos.1 and 2 passed the orders in accordance with law and they need not be interfered with. He further submits that the appeal filed by the petitioners is not maintainable as per Rule 13 (2) of the Andhra Pradesh Rights in Land and Pattadar Pass Book Rules, 1989 (for short, Rules) which says that the Revenue Divisional Officer can entertain the appeal. He relied upon a decision of this Court in **M.B.Ratnam v. Revenue Divisional Officer, R.R. District**[2] and submitted that the Revenue Divisional Officer has jurisdiction to pass the orders. Rule 13(2) of the Rules cannot be read independently as Rule 13(1) envisages procedure for alteration of records. Under Rule 13(2), general powers have been conferred upon the Revenue Officers, having jurisdiction. He further argued that Section 158 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli has no application to the present case and the first respondent ought to have dismissed the appeal of the petitioners as lack of jurisdiction

7. A perusal of judgment and decree dated 25.07.2016 in O.S.No.33 of 2003 on the file of the Court of Junior Civil Judge,

[2] 2003 (1) ALD 826 (DB)

Peddapalli, shows that the Court below, after a full-fledged trial with regard to the title of the parties over the subject land, has dismissed the claim of respondent Nos.4 and 5 herein and allowed the counter-claim of the petitioners herein. Respondent Nos.1 and 2 proceeded with the matter, when the *lis* is pending before the Court below between the same parties with regard to same land, which hit by doctrine of *lis pendens.* Respondent Nos.1 and 2 ought not to have proceeded with the matter, when the suit is pending before the Court below, as the title disputes are to be decided by the competent civil Court as per the ratio laid down in **Sannepalli Nageswar Rao**'s case (1 supra).

8. The Revenue Officials have no jurisdiction to pass orders of declaration of title and to interfere in this regard. The appeal filed under Section 158 of Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli by the petitioners before the first respondent is also the one filed before a wrong forum. The first respondent ought to have returned the appeal without going into the facts of the case, after hearing both sides. Respondent Nos.1 and 2 passed the orders without jurisdiction and contrary to law.

9. In the facts and circumstances of the case, this writ petition is disposed of, setting aside the order of the second respondent in File No.H/203/2001, dated 12.04.2001, and also the order of the first respondent in No.D1/4467/2001, dated 18.01.2005. The petitioners and respondent Nos.4 and 5 are at liberty to workout their remedies that are available to them under law. No costs. As

a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 20-12-2017

Note: L.R. Copy to be marked.
B/o. TJMR