

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

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**WRIT PETITION NO.22955 OF 2017**

Between:

Abdul Rafeeq S/o late Abdul Hameed, Aged about 49 years,  
Occu: Business, R/o. Dudyal Village, Bomraspet Mandal,  
Vikarabad District and others.

.....Petitioners

and

The State of Telangana, rep.by its Principal Secretary,  
Revenue Department, Secretariat, Hyderabad and others.

.....Respondents

JUDGMENT PRONOUNCED ON : 26.10.2017

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

1. Whether Reporters of Local Newspapers may : No  
be allowed to see the Judgments ? :
2. Whether the copies of judgment may be marked : **Yes**  
to Law Reporters/Journals :
3. Whether Their Ladyship/Lordship wish to : No  
see fair copy of the Judgment ? :

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

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Revenue Department, Secretariat, Hyderabad and others.

.... Respondents

!Counsel for the petitioners : Sri M.Damodhar Reddy

Counsel for the Respondents: Government Pleader for Revenue  
(TG) for respondents 1 to 3;  
Sri N.Vasudeva Reddy, counsel for  
respondents 4 to 6

<Gist :

>Head Note:

? Cases referred:

1. 1996 LawSuit (AP) 906
2. 1997 (2) ALT 625 (D.B.)
3. 2000 (1) ALD 672
4. 2003 (1) ALD 85 (SC)
5. 2011 (4) ALD 567
6. 2014 (1) ALT 365
7. (2015) 3 SCC 695
8. 2014(3) ALT 176 (DB)
9. 2015 (4) ALD 427
10. (2009) 9 SCC 352
11. (2010) 8 SCC 467
12. (2006) 3 SCC 173
13. (2003) 3 SCC 583
14. 2015 (6) ALD 609 (DB)

**HONOURABLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NO.22955 OF 2017**

**ORDER:**

Heard Sri M.Damodar Reddy, learned counsel for petitioners, learned Government Pleader for Revenue (TG) for respondents 1 to 3 and Sri N.Vasudeva Reddy, learned counsel for respondents 4 to 6.

2. Respondents 4 to 6 and one other person filed revision under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act 1971 (Act, 1971) before the Joint Collector, Vikarabad District praying to carryout corrections of illegal entry in the old ROR of 1979-80 in respect of land in Sy.No.1145 to an extent of Ac.9.18 guntas of Dudyal Village of Bomraspet Mandal by deleting the name of late Abdul Hameed. Revision petitioners contended that one Babu Rao is the original owner of the above land and he sold the same to the father of the revision petitioners through sale deed dated 29.02.1950. In Khasra pahani 1954-55, the name of father of revision petitioners was recorded as purchaser and in subsequent years name of their father recorded as owner and pattadar. In the year 1983, Government issued pattadar pass books in the name of their father. In support of their contention that they are owners, they have also stated that in the year, 1973 their father obtained loan from the Land Mortgage Bank (LMB) to dig open bore-well. According to them, for the first time in 1979-80 old ROR, name of father of respondents was recorded without any file number, proceedings number and without mention of document or decree of Civil Court as source to undertake such exercise.

3. Detailed contentions were urged respectively. Suffice to note that, respondents before the revisional authority (petitioners herein) opposed the claim of revision petitioners (respondents 4 to 6 herein) primarily on the ground that there was no sale as claimed by them and it was a false document. It was further contended that if there was un-registered sale deed, they would have got the same regularized and obtained certificate under Section 50-B of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (Act, 1950). As no such certificate was obtained, entire claim of revision petitioners falls to ground.

4. On extensive consideration of rival claims, the Joint Collector noticed that in P.T. Register of Dudyal village for the year 1950-51, name of Smt. Srishasani Bogum was shown as pattadar and Chinthakindi Veerappa (through whom respondents 4 to 6 claim passing on title to them) was shown as protected tenant. In the Sethwar for the year 1351 Fasli of Bomraspet village, the subject land was classified as Sarkari (patta) with the Khatedar name Srishasani Bogum. In the year 1954-55, Srishasani Bogum was shown as pattadar and Chinthakindi Veerappa was shown as occupant of land by way of purchasers. He was also shown as protected tenant and actual cultivator of the land. According to Joint Collector, the entries made in the year 1954-55 continued up to the pahani of 1978-79 and only in the pahani of 1979-80, name of Chinthakindi Veerappa was deleted and name of Mohd.Moulana was recorded as pattadar. The same was also reflected in the pahanies of 1987-88, 1990-91 onwards. In possession column of pahanies for the years 1990-91, 1998-99 and 2009-10, names of

respondents were recorded as occupants, whereas in pahanies for the year 1982-83, 1987-88, 1996-97, 2002-03, 2005-06, 2006-07, possession column is kept blank. He also noticed that in the year 2009-10 pahani, land is divided among respondents before him in equal shares claiming as successors of late Mohd.Moulana. According to the Joint Collector, it is not known how respondents or their late father Moulana are related to original pattadar; not filed any documentary evidence to show that it was ancestral property and they have acquired rights by virtue of succession. According to the Joint Collector, name of father of respondents was unauthorizedly recorded as pattadar in the ROR Register of 1979-80 and pahanies of 1979-80, 1982-83 etc., without any documentary evidence and no file number is mentioned for making such changes.

5. The objection of the respondents before him that O.S.No.2 of 2010 is pending on the file of Junior Civil Judge at Kodangal and, therefore, no decision should be made was rejected holding that the said suit was for perpetual injunction and no injunction orders were granted by the trial Court and that injunction suit has no relevance with issue involved in the revision. Having regard to findings recorded by him, as briefly noted above, he allowed the revision and ordered to restore the name of Chinthakindi Veerappa as pattadar while deleting the name of Mohd. Moulana. Aggrieved thereby, this writ petition is filed.

6. Sri M.Damodar Reddy, learned counsel for petitioners contended that:

i) revision petition was entertained after long lapse of time and there was no sufficient explanation as to why such petition was preferred after long lapse of time. According to the learned counsel, even according to the unofficial respondents, entry of late Abdul Hameed was made in revenue records of the year 1979-80 and in the subsequent years also name was shown and for the year 2009-10 pahani would reflect that names of the petitioners were reflected as owners with equal shares by way of succession. If that is so, unofficial respondents ought to have preferred revision soon thereafter. Though Section 9 of the Act do not prescribe any limitation, such revision has to be preferred within a reasonable time and in the facts of the case, it cannot be said that revision filed in the year 2013 was within a reasonable time and this ought to have been appreciated by the revisional authority and ought not to have entertained the revision. Even assuming that un-official respondents were not aware of entries made in revenue records till notice was received by them in O.S.No.2 of 2010, they could have filed such revision immediately thereafter, even if same is treated as date of knowledge. But even after notice was received in the suit, they kept quiet for three long years and in the mean time, they have also filed written statement in the suit. It is thus contended that revision was not filed within reasonable time. There was inordinate delay and the revision ought to have been dismissed on that ground alone.

ii) It is further contended that as petitioners were in possession and respondents 4 to 6 tried to dispossess them, petitioners instituted O.S.No.2 of 2010 praying to grant perpetual injunction. The unofficial respondents filed their written statement

and suit is pending trial. After entering their appearance in the suit and after filing written statement, instant revision is filed. In the written statement, they have also raised similar objections as urged before the revisional authority, whereas petitioners have categorically denied alleged purchase made by their late father on 29.02.1950 and it being an ancestral property, it has fallen to their share as successors to late Abdul Hameed. Since suit is pending, the revisional authority erred in entertaining and deciding the issue which would adversely affect claims made by petitioners in their suit. Once competent Court is seized of the matter, the revisional authority under the Act, 1971 ought not to have entertained the revision and enter into rival claims and decide such claims. His decision to reject their objection on this aspect is erroneous.

iii) In addition to the above contentions, learned counsel also made extensive submissions on merits of the rival claims, more particularly with reference to the provisions of A.P. (Telanana Area) Tenancy Agricultural Lands Act, 1950 and the legality/genuineness of the sale deed dated 29.02.1950, based on which claim is set up by unofficial respondents.

iv) In support of his contentions, learned counsel placed reliance on following decisions:

i) **Ibrahimpattanam Taluk Vyavasaya Coolie Sangam, rep.by its General Secretary, Geetha Ramaswamy v. K.Suresh Reddy**<sup>1</sup>;

ii) **Mohd. Kareemuddin Khan (died) and others v. Syed Azam**<sup>2</sup>;

iii) **G.K.Naik V. Susheela Naik and another**<sup>3</sup>;

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<sup>1</sup> 1996 LawSuit (AP) 906

<sup>2</sup> 1997 (2) ALT 625 (D.B.)

iv) **Mahila Bajrangi (dead) by LRs and others v. Badribai and another<sup>4</sup>**;

v) **Kuthuru Narasimha Reddy v Pusala Venkataiah and others<sup>5</sup>**;

vi) **Basireddy Rukminamma v. Joint Collector, Kadapa and others<sup>6</sup>**; and

vii) **Joint Collector Ranga Reddy District and another v. D.Narsing Rao and others<sup>7</sup>**.

7 (i). Per contra, Sri N.Vasudeva Reddy, learned counsel for respondents 4 to 6 contended that filing of revision on 18.05.2013 to rectify illegal entries made in the revenue records cannot be called as one made after long lapse of time and revision cannot be thrown out on the ground that there was inordinate delay, more particularly in the peculiar facts of this case. Having noticed from contents of suit instituted by petitioners and on verification of revenue records, revision was filed on 18.05.2013. However, he would submit that unofficial respondents were pursuing the matter even earlier. He would therefore submit that there was no delay much less inordinate delay in filing the revision.

ii) According to the learned counsel, right from 1954-55 name of father of unofficial respondents appeared. He was protected tenant and he purchased land from pattadar in the year 1950. Sale deed of 1950 would evidence such purchase made. Tenancy Register of 1956-57 & 1957-58 would reflect the name of father of petitioners as tenants. Phanies for the year 1957-58 also reflect name of father of unofficial respondents. Pattadar pass

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<sup>3</sup> 2000 (1) ALD 672

<sup>4</sup> 2003 (1) ALD 85 (SC)

<sup>5</sup> 2011 (4) ALD 567

<sup>6</sup> 2014 (1) ALT 365

<sup>7</sup> (2015) 3 SCC 695

books were issued reflecting name of late father of unofficial respondents. Only for the first time in the year 1979-80, name of Mohd. Moulana appeared. No record is shown how his name is reflected in revenue records. According to learned counsel, panchanama conducted on 17.12.2009 would reflect that unofficial respondents were in possession and continued to be in possession. On 27.12.2009 pattadar pass books and title deeds were issued reflecting names of unofficial respondents. Before issuance of pattadar pass books, notices were issued to petitioners and they did not appear. Report of the Tahsildar dated 15.11.2012 which was addressed to the Revenue Divisional Officer would also reflect that in Khasra pahani for the year 1954-55 name of Chintakindi Veerappa was recorded as occupant by way of purchase for 380/- and for the years 1955-1958, his name was recorded in pattadar and occupant columns. The report would disclose that having noticed wrong entry made, notice was issued to petitioners to produce the documents to show how their names were entered in pattadar column, but no documents were produced in support of their claim, except stating that it is their ancestral property. On 18.01.2013, the Revenue Divisional Officer directed the Tahsildar that he being competent authority to restore or to make the corrections of illegal and unauthorized entries made, he should take appropriate steps. He would therefore submit that documents enclosed to counter-affidavit would reflect that wrong entry was made and unofficial respondents have been prosecuting the matter.

iii) By narrating above facts, learned counsel contended that it cannot be said that unofficial respondents kept quiet even

though they were aware of wrong entries made in revenue records. Panchanama conducted on 17.12.2009 would reflect that illegally some entry was made without following due procedure and without putting unofficial respondents on notice and that there was no occasion for unofficial respondents to know about alleged illegal entry made, allegation that in spite of knowledge of such illegal entry made, they kept quiet for unreasonably long time deserves to be rejected. On the contrary, reports of Tahsildar and decision of the revisional authority disclose that patent illegality was committed in making wrong entry in revenue records of 1979-80 for the first time. In spite of granting sufficient time and opportunity to petitioners by various authorities, they were unable to establish source how title was validly passed on to their father and what was the relationship of original pattadar with their father. Further more, name of Moulana was not continuously reflected in revenue records as noticed by the revisional authority. Thus, in the facts of this case, decisions relied by the learned counsel have no application and decision by revisional authority cannot be set aside on mere ground that no challenge was made soon after entry was made in the year 1979-80 in revenue records. According to learned counsel, revisional jurisdiction was validly exercised.

iv) He further submitted that pending suit is not a bar for entertaining revision under Section 9 of the Act, 1971. Suit is for mere injunction and not for declaration of title and, therefore, pending such suit is not a bar for exercising revisional power under Section 9 of the Act, 1971.

v) He would further submit that revisional authority considered all aspects and on considering rival contentions and on applying his mind, decision was made by him. Against decisions made by quasi-judicial authorities, the jurisdiction of the writ Court is limited and when there is no perversity or patent illegality in the decision made by the quasi-judicial authority writ Court cannot interfere as if the Court is sitting in appeal against such decision.

vi) Learned counsel fairly submitted that decision arrived at by revisional authority cannot affect rival contentions in the pending suit and it is always open to plaintiffs to contest claim of defendants on merits and to prove that they are in possession.

vii) Learned counsel also extensively referred to provisions of Tenancy Act and Act, 1971 as well as on merits of their claim.

viii) In support of his contentions, learned counsel Sri N.Vasudeva Reddy, placed reliance on following decisions:

i) **Erukala Uma v Government of Andhra Pradesh, rep.by its Joint Collector, Karimnagar and another**<sup>8</sup>; and

ii) **G.Prabhakar v. State of Telangana and others**<sup>9</sup>.

8. In reply, learned counsel Sri Damodar Reddy, by referring to relevant portions of order of revisional authority (page-23 of writ petition material paper book) contended that said assessment made by the Joint Collector would itself reflect that entry of Mohd.Moulana was made in revenue records as early as in the year 1979-80 and limitation has to be counted from that year

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<sup>8</sup> 2014(3) ALT 176 (DB)

<sup>9</sup> 2015 (4) ALD 427

onwards. Though Section 9 of the Act, 1971 do not prescribe period of limitation to prefer revision, such revision has to be preferred within a reasonable time and preferring revision in May, 2013 against alleged wrong entries made in the year 1979-80 cannot be said as made within reasonable time. He emphasized that in view of decisions relied upon by him entertaining of revision after such long lapse of time was erroneous and on that ground alone revision ought to have been dismissed. He further reiterated that when suit is pending, revisional authority ought not to have entertained the revision.

9. Before appreciating rival contentions, it is to be noted that O.S.No.2 of 2010 is pending in the Court of Junior Civil Judge, Kodangal. Therefore, Court is not inclined to go into the merits of rival contentions on the title and ownership at this stage.

10. Thus, only issues for consideration in this writ petition are,

(i) Whether the revision petition filed by unofficial respondents is hit by inordinate delay and laches and whether Joint Collector erred in entertaining revision after long lapse of time and altering revenue records in their favour by deleting names of the petitioners herein ?; and

(ii) Whether Joint Collector erred in entertaining revision when O.S.No.2 of 2010 is pending inter-parties ?

**ISSUE NO. (i):**

11. Section 9 of the Act, 1971 reads as under:

**“Section 9 – Revision:** The Collector may either suo motu or on an application made to him, call for and examine the record of any Recording Authority, Mandal

Revenue Officer or Revenue Divisional Officer under Sections 3, 5, 5-A or 5-B, in respect of any record of rights prepared or maintained to satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or reversed or remitted for re-consideration, he may pass orders accordingly.--

Provided that no such order adversely affecting any person shall be passed under this section unless he had an opportunity of making a representation.”

12. A plain reading of this section makes it clear that, Act does not prescribe limitation to exercise power of revision by the revisional authority. Such power can be exercised suo moto or on an application. It vests powers in him to verify the concerned record and assess as to regularity, correctness, legality or propriety of decisions taken by his subordinates. It is a sweeping power. Such power can be invoked to rectify any injustice caused to a person at the hands of his subordinates. It vests wide discretion.

13. There are similar such provisions in various enactments vesting power in an authority to exercise revisional jurisdiction without stipulating time limit. In plethora of decisions Constitutional Courts have considered the scope of exercise of such power. A few of the decisions, some of them cited at the bar, are referred hereunder.

13.1. In **Ibrahimpattam**, the Division Bench of this Court held as under:

“3. The learned single Judge allowed the writ petition on the twin considerations that the purported action ***suo moto proceedings initiated after 13 to 15 years was***

**unwarranted and could not be considered as reasonable** exercise of the suo moto power and on the ground that since the Joint Collector found the respondents to have been put in possession of the lands in the year 1965, their applications for issue of validation certificates had been made within time as was later extended, for which, the certificates cannot be held to be bad in law.

5..... Exercise of such power after 14 to 15 years is ipso facto unreasonable. There is absolute no explanation before us to why though Section 50(B) was amended in the year 1979, the Joint Collector waited till 1989 to invoke the power. **Every man has the legitimate expectation of regarding a set of things, or facts which have continued** over a period of time, to have become settled so that he can plan his future course of action on the basis of such accepted situation. Unsettling such facts after long delay upsets not only his entire programme but also affects in the long run the society itself. Even in the present case, the respondents have taken the stand that they filed returns before the ceiling authorities under the Ceiling Act, 1973, showing these lands as their holdings authorities and that such plead had been upheld. Unsettling such position may mean even reopening the ceiling proceedings which must have become final long time back. In that view of the matter, we agree with the observations of the learned single Judge in that respect.

(emphasis supplied)

13.2. In **Joint Collector Ranga Reddy (supra)**, Supreme Court reviewed the law declared in earlier decisions on the subject. Supreme Court noticed, having regard to facts of that case, that authorities of the state were aware of claims of respondent on the subject land but kept quiet. Supreme Court, therefore held that exercise of suo moto revisional power after five decades, in the facts of that case, opposed to concept of rule of law, even though period of limitation is not prescribed to exercise such power.

13.3. In **Santoshkumar Shivgonda Patil and others v. Balasaheb Tukaram Shevale and others**<sup>10</sup>, on 30.03.1976 Tahsildar passed orders, where under 3/4<sup>th</sup> portion of land earlier in occupation of Tukaram was granted in favour of Shivgonda Satgonda Patil on the basis of his occupation as cultivator and

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<sup>10</sup> (2009) 9 SCC 352

1/4<sup>th</sup> remained in favour of Tukaram Sakharam Shevale. Tukaram Sakharam Shevale died in the year 1990. In 1993, his legal heirs filed application before the Sub-Divisional Officer seeking revision of order of Tahsildar dated 30.03.1976. Said revision was allowed. Supreme Court noticed that after the order of Tahsildar dated 30.03.1976, Tukharam Sakharam Shevale though survived till 1990 did not challenge the same and kept quiet. Supreme Court also noticed that it was not the case of the legal heirs of Tukharam Sakharam Shevale that he was not aware of the order passed on 30.03.1976 and that it was not the case of the Sub-Divisional Officer that order dated 30.03.1976 was obtained fraudulently. In the above factual background, Supreme Court held that exercise of revisional power after lapse of 17 years would amount to abuse an exercise of such power. Supreme Court held as under:

“11. It seems to be fairly settled that if a statute does not prescribe the time-limit for exercise of revisional power, it does not mean that such power can be exercised at any time; rather it should be exercised within a reasonable time. It is so because the **law does not expect a settled thing to be unsettled after a long lapse of time.** Where the legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein.” (emphasis supplied)

13.4. In **Sulochana Chandrakant Galande v. Pune Municipal Transport and others**<sup>11</sup>, the facts in brief are as under:

The subject property came within the urban limits on 17.05.1976 and was governed by the Urban Land (Ceiling and Regulation) Act, 1976 (Act, 1976). The said land was acquired under the Act in the year 1978-1979; possession was taken;

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<sup>11</sup> (2010) 8 SCC 467

handed over to Pune Municipal Transport (PMT); in 1988 the bus depot was constructed on a part of the suit land. On 06.04.1988, appellant preferred revision under Section 34 of the Act, 1976 contending that land ought not to have acquired under the Act on the ground that on the date of commencement of the Act, 1976 land was not within the limits of Urban area. The revision was allowed on 29.09.1998 and challenge was made by the PMT, High Court of Maharashtra allowed the revision petition. Supreme Court noticed that the revisional authority erred in not granting the point of delay interpreting the provision contained in Section 34 of the Act, 1976. Supreme Court held as under:

**“28.** The legislature in its wisdom did not fix a time-limit for exercising the revisional power nor inserted the words “at any time” in Section 34 of the 1976 Act. ***It does not mean that the legislature intended to leave the orders passed under the Act open to variation for an indefinite period inasmuch as it would have the effect of rendering title of the holders/allottee(s) permanently precarious and in a state of perpetual uncertainty.*** In case, it is assumed that the legislature has conferred an everlasting and interminable power in point of time, the title over the declared surplus land, in the hands of the State/allottee, would forever remain virtually insecure. The Court has to construe the statutory provision in a way which makes the provisions workable, advancing the purpose and object of enactment of the statute.

**29.** In view of the above, we reach the inescapable conclusion that the revisional powers cannot be used arbitrarily at a belated stage for the reason that the order passed in revision under Section 34 of the 1976 Act, is a judicial order. What should be reasonable time, would depend upon the facts and circumstances of each case.” (emphasis supplied)

14. From the long line of precedent decisions, it is manifest that though Constitutional Courts have conceded revision power *per se* but were concerned about manner of exercise of such power in individual cases. Courts expressed displeasure in invoking such power after long lapse of time and upsetting settled issues.

Therefore, courts have laid down limits to exercising such power. Courts have held that even in the absence of fixing time limit such power ought to be exercised within 'reasonable time'. However, what is reasonable time is left to be decided in individual cases.

15. The constitutional Courts mandated exercise of such power within reasonable time only to ensure that exercise of such power after long lapse of time would upset legitimate expectation flowing out of a decision made by executive authority long time back; accrual of certain rights flowing out of such decisions; accrual of third party interests; and that there should not be perpetual uncertainty on any issue. In other words, there must be some finality to an issue.

16. Since power to undertake review is conceded to revisional authority and time limit is not prescribed to exercise such power, what is required to be considered in a given case is whether there was delay in making an application for revision of decisions of lower authorities and if there was delay whether such delay was unexplained or unreasonable long. Thus, there cannot be straight jacket formula to hold every case of delay in making such a claim as perse vitiated and therefore in a given case whether party was justified in filing revision after long time and whether there was sufficient justification for the revisional authority to entertain revision made after long lapse of time and decided the same on merits depends on the facts of a given case. Thus, to hold that a revision was entertained and decided after long lapse of time, it must be established that such revision was made after long lapse of time of occurring of an event and there was no valid justification

to file such revision after inordinate delay. Thus the issue whether revision was filed 'within reasonable time' is mixed question of fact and law. Therefore, specific objection must be raised before the revisional authority and invite finding from him.

17. No doubt revision power being a residuary power, must be exercised sparingly/cautiously, more so when a person files revision after long lapse of time of an event. In a given case, invoking such power can be tested on the ground whether it was exercised arbitrarily and whimsically and on other well laid down parameters of judicial review of administrative action, but foundation must be laid before the revisional authority. Judicial review of such action can be made based on the foundation of facts and not in isolation. Thus, parties are required to raise specific objection and invite finding from the revisional authority on maintainability of revision before testing his decision by invoking the writ jurisdiction of this court.

18. It is to be noted that petitioners filed written arguments before revisional authority. Extensive contentions were made on merits against unofficial respondents' claim that their father was protected tenant and that sale was made between original owner of property and their father etc., but no contention was raised on maintainability of revision after long lapse of time. It is to be noted that petitioners contended that to enforce an order of Revenue Divisional Officer by Tahsildar, revision is not maintainable and party ought to have approached Revenue Divisional Officer to issue appropriate directions to Tahsildar. Thus, there was no occasion for the revisional authority to examine the issue of maintainability

of revision on the ground of delay in filing such revision vis-à-vis the facts of the case and defense of unofficial respondents. Petitioners ought to have raised their objections before revisional authority on maintainability of revision on the ground of inordinate delay in filing revision and invited a finding from him.

19. Further, even in the writ petition, no plea is raised against entertainment of revision by the revisional authority after long lapse of time. Contentions are urged on merits and primarily, plea raised before revisional authority as well as in writ petition is on the ground that petitioners filed O.S.No.2 of 2010 praying to grant perpetual injunction and during the pendency of suit, revisional authority ought not to have entertained revision and granted relief to correct the entries in revenue records.

20. Thus, no foundation is laid either before revisional authority or in this writ petition on the contention of entertaining revision after long lapse of time.

21. On the contrary, respondents have made extensive averments justifying the petition filed before revisional authority, resulting in order impugned, which averments made in their counter are not denied.

22. It is specific case of the unofficial respondents that since 1983, unofficial respondents were agitating against wrong entries made in revenue records and made several representations to Tahsildar. On 17.12.2009, spot inspection was made and panchanama was conducted. Panchanama would disclose that unofficial respondents are in possession of land to an extent of

Ac.9.18 guntas in Sy.No.1145. They were issued pattadar pass books and title deeds on 27.12.2009. Thereafter representations were made to Revenue Divisional Officer for correction of entries in revenue records. Report was called from Tahsildar and Tahsildar submitted his report on 15.11.2012. Report of Tahsildar would disclose that Tahsildar directed the petitioners to produce documents in support of their claim of ownership. In response, no documents were produced in support of their contentions that subject property is their ancestral property. On consideration of said report, Revenue Divisional Officer directed the Tahsildar to take a decision as he is competent authority. Alleging inaction and continuous reflection of wrong entries in revenue records, unofficial respondents filed revision under Section 9 of the Act.

23. Specific averments made by unofficial respondents in their counter-affidavit are not controverted. According to averments in counter-affidavit filed by unofficial respondents, their ancestors were protected tenants and also shown as purchasers of very same land. Subsequent revenue records would disclose their continuity in possession and enjoyment.

24. A reading of order in revision would show that on elaborate consideration of respective submissions, revisional authority found that as per Protected Tenant Register of 1950-51 of Dudyal village, name of Ch.Veerappa was shown as protected tenant. Detailed analysis of various developments on property and various changes made in revenue records were discussed by revisional authority. It appears, from reading of material placed on record by respective parties and order of revisional authority, name of Md.Moulana

figured as pattadar in land in pahani 1979-80 and from 1990-91 onwards. However, it appears for the years 1990-91, 1998-99, 2009-10, names of unofficial respondents were shown as occupants of land. In the pahanies for the years 1982-83, 1987-88, 1996-97, 2002-03, 2005-06, 2006-07, possession column was kept blank. In the year 2009-10, revenue record reflected division of land in equal shares and recording of names of unofficial petitioners by way of succession.

25. Record would disclose that no material was placed on record before revenue authorities on source of title to Mohd.Moulana, through whom petitioners were claiming as succeeded to property. It appears from reading of revisional order that illegal entry was made for the first time in the year 1979-80 showing name of Mohd.Moulana as pattadar and said entry is not supported by any document of ownership and entries were not supported by decision consciously taken on due consideration of the issue. It appears, unofficial respondents were not put on notice before undertaking such exercise.

26. Thus, even though in pattadar column name of ancestor of petitioners was shown after 1979, though not continuously, names of unofficial respondents were reflected in possessor/enjoyers column and reports of revenue authorities would disclose that unofficial respondents are in continuous possession and enjoyment of subject property. Further, it is not the case of petitioners that third party rights accrued on account of petitioners being treated as pattadars in revenue records. It is not the case of the petitioners that they have challenged the entries reflecting

unofficial respondents in possessor column. Thus, it cannot be said that revision proceedings are vitiated on the ground of delay and latches.

27. In exercise of power of judicial review under Article 226 of the Constitution of India an order of administrative authority, more particularly made in exercise of quasi-judicial power, can be tested and writ court may interfere only if Court comes to a conclusion that there is error of jurisdiction or decision is perverse. Writ Court does not sit as appellate authority over such decision. Thus, judicial review is confined to jurisdictional error and perversity of decision. The scope of judicial review is confined to decision making process and not the decision perse.

28. The following two decisions succinctly put the scope of judicial review of administrative decisions.

28.1. In **Commissioner of Police v. Syed Hussain**<sup>12</sup>, dealing with scope of judicial review of administrative action, Supreme Court held as under:

“10. It is one thing to say that order passed by the statutory authority is wholly arbitrary and thus violative of Article 14 of the Constitution and thus liable to be set aside, but it is another thing to say that the discretionary jurisdiction exercised by such authority should not ordinarily be interfered with by a superior court while exercising its power of judicial review unless one or the other ground upon which and on the basis whereof the power of judicial review can be exercised, exists.

11. It is not the contention of the learned counsel for the respondent that the impugned order of punishment smacks of arbitrariness so as to attract the wrath of Article 14 of the Constitution. The jurisdiction of the disciplinary authority to impose such punishment is also not in question.

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<sup>12</sup> (2006) 3 SCC 173

12. Thus, even assuming that a time has come where this Court can develop “administrative law” by following the recent decisions of the House of Lords, we are of the opinion that it is not one of such cases where the doctrine of proportionality should be invoked. In *ex p Daly* [(2001) 3 All ER 433 (HL)] it was held that the depth of judicial review and the deference due to the administrative discretion vary with the subject-matter. It was further stated: (All ER p. 447, para 32)

“It may well be, however, that the law can never be satisfied in any administrative field merely by a finding that the decision under review is not capricious or absurd.”

As for example in *Huang v. Secy. of State for the Home Deptt.* [(2005) 3 All ER 435] referring to *R. v. Secy. of State of the Home Deptt., ex p Daly* [(2001) 3 All ER 433 (HL)] , it was held that in certain cases, the adjudicator may require to conduct a judicial exercise which is not merely more intrusive than *Wednesbury* [*Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.*, (1947) 2 All ER 680 : (1948) 1 KB 223 (CA)] , but involves a full-blown merits judgment, which is yet more than [what] *ex p Daly* [(2001) 3 All ER 433 (HL)] requires on a judicial review where the court has to decide a proportionality issue.

**13. It is, therefore, beyond any doubt or dispute that the doctrine of proportionality has to be applied in appropriate case as the depth of judicial review will depend on the facts and circumstances of each case.”**

(emphasis supplied)

28.2. In **Lalit Popli v. Canara Bank**<sup>13</sup>, Supreme Court delineated scope of judicial review as under:

**“17. While exercising jurisdiction under Article 226 of the Constitution the High Court does not act as an appellate authority. Its jurisdiction is circumscribed by limits of judicial review to correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice. Judicial review is not akin to adjudication of the case on merits as an appellate authority.”**

(emphasis supplied)

29. As seen from record, briefly noted above, there was extensive consideration and on application of mind, revisional authority held that illegally name of father of petitioners was reflected in revenue

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<sup>13</sup> (2003) 3 SCC 583

records and later on, names of petitioners were shown as successors and no material was placed on record before revisional authority or before Revenue Divisional Officer or Tahsildar in support of their claim that their father was owner of the property and title validly flown to their father and from their father to them. Thus, it cannot be said that decision arrived at by revisional authority is perverse.

30. In the facts of this case and narration of events as noted above, it cannot be said that there was error, much less patent error in exercising revisional power. The decision cannot be held as irrational nor can be held as weighed by irrelevant consideration. It cannot amount to outrageous defiance of logic. I see no infirmity in the decision making process. The specific contentions urged by unofficial respondents in counter-affidavit, explaining the steps taken by them for rectification in the errors committed in revenue records are not controverted. I am of the considered opinion that no case is made out to nullify the decision of revisional authority.

31. At this stage, it is necessary to consider few other submissions of learned counsel for petitioners.

32. Learned counsel for petitioner would further contend that having appealed to Revenue Divisional Officer and Revenue Divisional Officer directed Tahsildar to consider the same, unofficial respondents could not have gone before revisional authority and petition filed before revisional authority is nothing but enforcement of directions issued by Revenue Divisional Officer to Tahsildar and such relief cannot be prayed in revision petition. Moreover, unofficial respondents could have gone before appellate

authority for enforcement his own order, but not before revisional authority. In support of his contention, he placed reliance on decision of **Basireddy Rukminamma**.

33. It appears from reading of judgment in **Basireddy Rukminamma**, revisional authority while holding that there is a serious title dispute set aside pattadar pass books and title deeds issued to petitioner. Learned single Judge of this Court found fault with decision of Revenue Divisional Officer on the ground that having held that there was a serious title dispute and was not competent to decide the same, he could not have cancelled pattadar pass books and title deeds and further held that without availing remedy of appeal under Section 5(5) of the Act, person ought not to have availed remedy of filing revision.

34. Issue whether appeal is maintainable against issuance of pattadar pass books and title deeds was considered by the Division Bench of this Court in **Ratnamma v. Revenue Divisional Officer, Dharmavaram, Anantapur District and others**<sup>14</sup>. Division Bench held that no appeal is maintainable against issuing of pattadar pass books and title deeds. Thus, view taken by learned single Judge in **Basireddy Rukminamma** may not hold the field. Furthermore, in the facts of this case, it cannot be said that revisional authority decided the title dispute. Further, pending suit is only on the issue of possession.

35. There is merit in the contention of the learned counsel for unofficial respondents that Tahsildar has no competence in undertake correction in the revenue records once revenue records

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<sup>14</sup> 2015 (6) ALD 609 (DB)

reflected the name of father of the petitioners. This issue was considered by the learned single Judge of this Court in **G.Prabhakar**. This Court held as under:

36. In **G.Prabhakar**, single Judge of this Court held as under:

“2. It is the case of the petitioner that the family of Syed Miya were issued pattadar pass books and in which the land in Sy. No. 490 was recorded as a patta land and whereas in the year 2003 a mistake has crept and the nature of the land was recorded as 'Lavani Patta' instead of 'Private Patta' and the same is being continued as such. Bringing this fact to the notice of the 3rd respondent, petitioner had submitted an application on 04.10.2012 to the 2nd respondent vide complaint No. 26346, requesting him to correct the entries in the revenue records.....

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4. A perusal of Sections 3 to 5 and 9 of the Act leave no manner of doubt that the Tahsildar is not vested with any powers to make corrections either suo motu or on an application except at the time of making entries for the first time in terms of the notification issued under Sections 3(1), 3(2) of the Act. Any corrections in relation to the entries could be made in the given circumstances satisfying Section 3(3) of the Act within one year. If the case requiring corrections of the revenue records beyond the time limit of one year, necessary orders can be passed only by the District Collector in exercise of the revisional powers and the Tahsildar is not vested with any such power.”

37. Learned counsel for petitioners forcibly contended that unregistered private sale deed dated 29.02.1950 claimed by unofficial respondents is not valid for want of prior permission from the revenue authorities under Section 47 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 and the sale was not validated under Section 50-B of the Act. In support of the said contention, learned counsel placed reliance on the decision of this Court in **Mohd.Kareemuddin**.

38. In **Mohd.Kareemuddin**, Division Bench of this Court held as under:

“14. While we reach such conclusion we have however also to advert to the submission urged on behalf of the appellants of the sales to have been invalid because the transfer of the land had not been made with the sanction of the competent authority as laid down under Section 47 of the Act. It has to be said at the outset that this submission having been given up before the learned single Judge, it cannot be raised at this stage. It is however argued before us that since it is a question of law, the question can be raised also at this stage and that the concession was not legally sound. Section 47 of the Act, which has since been deleted on 18-3-1969, barred any permanent alienation or any other transfer of land unless it was made with the previous sanction of the Tahsildar. Admittedly, no such permission had been taken when Exs. B-1 and B-2 were executed though Section 47 of the Act was then in force. The sales hence were apparently invalid. Section 50-B which was brought in by the same amendment provided for validation of the invalid sales on application to be made within the prescribed period to the Tahsildar for a certificate declaring the alienation or transfer to be valid. No such application had been made by the respondent for validation. We have hence to hold that the sales were invalid....”

39. Decision in **Mahila Bajrangi** do not come to aid of petitioners on issue in this writ petition.

40. Decision in **Kuthuru Narasimha Reddy** also do not come to aid of petitioners as there is no adjudication by revisional authority on title dispute. It is seen that observations made by revisional authority on the entry of name of father of petitioners and later, name of petitioners was not supported by any material and that exclusion of name of unofficial respondents was with reference to entry of names in revenue records. Thus, decision of revisional authority does not amount to decision made on title dispute.

41. For the reasons stated above, the issue is answered in favour of unofficial respondents and against the petitioners.

**ISSUE NO. (ii):**

42. Learned counsel for petitioners contended that when dispute is pending in Court, Revisional authority ought not to have

entertained revision and passed orders in favour of unofficial respondents.

43. The averments of the petitioners and the unofficial respondents would disclose that suit filed by the petitioners is to grant perpetual injunction against respondents to restrain the defendants from interfering with the peaceful possession of the plaintiffs over the subject property.

44. In **Erukala Uma**, after referring to scheme of Act, 1971, Division Bench of this Court held as under:

“10. Keeping this legislative scheme in mind, it is difficult to accept the contention that the moment any civil suit is filed, the authorities under the ROR Act have to stay their hands and cannot exercise any of the statutory powers under the ROR Act, awaiting decision of the civil Court. The remedies under the ROR Act are provided to give expeditious relief in respect of rights in land and pattadar pass books. Such right, therefore, does not get affected merely because of pendency of any civil suit before any Court. But section 8(2) of the Act specifies that only the decree in such suits seeking declaration of right under Chapter VI to Specific Relief Act would be binding on the authorities under the ROR Act.

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15. Hence, we deem it appropriate to clarify the judgment of the learned single Judge of this Court in V. Goutham Rao's case, to the extent that, when a show cause notice is issued by a competent authority, just because a civil suit is pending, ipso facto, it will not entitle a party to approach the High Court under Article 226 of the Constitution in view of the law laid down in V. Gowtham Rao's case, but the party has to approach the authority by way of a reply and should bring all the relevant facts to the notice of the authority otherwise, the purpose of the Act itself would be frustrated, which is enacted for effective implementation of entries in Record of Rights.”

45. As held by the Division Bench of this Court in **Erukala Uma**, pendency of suit is no ground to stop enquiry under the Act, 1971 and it is for the party to place on record all the relevant facts before the authority. Furthermore, it appears, suit was filed

praying to grant permanent injunction against interference in possession and does not concern the title dispute.

46. I do not see any error in the revisional authority exercising the quasi-judicial power under Section 9 of the Act, 1971 merely because suit is pending on a prayer to grant perpetual injunction.

47. Thus, the issue is held against petitioners and in favour of unofficial respondents.

48. In view of the above findings, the writ petition is liable to be dismissed and is accordingly dismissed. However, contentions on title/ownership and possession are left to be agitated in pending suit or in any other proceedings. It is made clear that observations made herein above are only for the purpose of consideration of the order of revisional authority made in exercise of revisional jurisdiction under Section 9 of the Act, 1971 on two issues formulated for consideration.

Miscellaneous petitions if any pending in the writ petition shall stand closed. There shall be no order as to costs.

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**JUSTICE P.NAVEEN RAO**

Date: 26.10.2017  
kkm

Note : L R copy to be marked—YES

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



**WRIT PETITION NO.22955 OF 2017**

**Date: 26.10.2017**

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