THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.33276 OF 2017

Dated:05.10.2017

Between:

Guda Venkat Reddy, S/o. Late Raji Reddy,
Aged about 66 years, Occ: Retd. Service,
R/o.H.No.2-6-1311, Bhavani Nagar,
Hanamkonda, Warangal District .. Petitioner

And

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

The Court made the following:

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ORDER:

Heard.

2. Petitioner claims to be the absolute owner of different extents of land in various survey numbers mentioned in paragraph No.2 of the affidavit filed in support of the Writ Petition. He alleges that the said property is joint family property and he is entitled to half share therein. According to petitioner, against some of the survey numbers, only name of his brother is recorded in the revenue records and it appears, his brother sold the land to third parties and the third party, the 5th respondent, now applied for mutation of his name in the revenue records. Having come to know that the third party has applied for mutation of his name in the revenue records, petitioner filed objections. Though his objections are received, without considering the said objections, the Tahsildar is undertaking the exercise of mutating the name of the 5th respondent and the same is illegal. Hence, this Writ Petition.

3. The facts, as briefly noted above, would disclose that there appears to be an *inter se* dispute between the petitioner and his brother regarding the claim of share in the joint family property. Be that as it may, assuming what is contended by the petitioner is true, if an application is submitted for mutation of the name in the revenue records by any person, the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short, 'the Act') envisages detailed procedure to be followed. Furthermore, even according to the petitioner, he filed objections before the Tahsildar and the same were received by him. If that is so, it cannot be said, at this

stage, that the Tahsildar would not follow the procedure as required by the Act and would not consider the objections filed by the petitioner, which made the petitioner to rush to this Court even before a decision is taken by the Tahsildar.

4. The Tahsildar being the initial authority, who undertakes the exercise of correction of entries in the revenue records, he is required to follow the procedure as prescribed by the Act and the Rules made thereunder. If that being so, it cannot be said that statutory authority would not follow the procedure. The present Writ Petition is preemptive litigation. Whether the Tahsildar exercised the power validly or in a *mala fide* manner or has no jurisdiction, are the matters which are to be gone into only if a decision is taken by the Tahsildar. Thus, even before a decision is taken by the Tahsildar, in exercise of power of judicial review under Article 226 of the Constitution of India, this Court cannot go into and mandate pre-emptively the Tahsildar to act in a particular manner. Therefore, the Court is not inclined to entertain the Writ Petition.

5. The Writ Petition is accordingly dismissed leaving it open to the petitioner to work out his remedies as available under the Act, as and when a decision is taken affecting his right. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in the Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:05.10.2017

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