

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**WRIT PETITION No.1456 of 2015**

**ORDER:**

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners requesting to issue a writ of certiorari or any other appropriate writ/order and set aside the order, dated 09.12.2014, of the Joint Collector-II, Ranga Reddy District, Hyderabad, 2<sup>nd</sup> respondent herein, passed in File No.D1/380/2012, after calling for the records.

**2.** I have heard the submissions of Sri *Resu Mahender Reddy*, learned counsel appearing for the petitioners; of the learned Government Pleader for Revenue (Telangana), appearing for the respondents 1 to 4; and of Smt. *A.Anasuya*, learned counsel appearing for the respondents 5 & 6. I have perused the material record.

**3.** The case of the writ petitioners, in brief, is this: 'The 1<sup>st</sup> writ petitioner is the absolute owner and possessor of land admeasuring Ac.15.02 guntas in Survey No.273 of Singapur Village, Shankarpally Mandal, Ranga Reddy District. The 2<sup>nd</sup> writ petitioner is the absolute owner and possessor of land admeasuring Ac. 2.00 guntas in Survey No.273 of the said village. The total extent of land owned by the writ petitioners is, thus, Ac. 17.02 guntas in the said survey number. Originally, one Asha Singh was the absolute owner of the subject property. The said fact is evident from the Khasra Pahanies of the year 1954-55, wherein his name was mentioned as pattadar and the name of Nallagari Ram Reddy was recorded as possessor, he being the

protected tenant. After the death of Asha Singh in the year 1972, his daughter Surjith Kaur succeeded to the subject property. Therefore, the subject property was mutated in her name in the revenue records *vide* proceedings No.D1/3262/1972 of the Tahasildar, Shankarpally Mandal, Ranga Reddy District, 4<sup>th</sup> respondent herein. Thus, Surjith Kaur became the absolute owner of the subject property, being the legal heir of the original pattadar Asha Singh. She had alienated the same to Chukkamma, W/o.Ram Reddy, under registered Sale Deed, dated 24.08.1973, bearing Document No.1072/1973, for valid sale consideration. After such sale, the property was mutated in the name of said Chukkamma in the revenue records *vide* proceedings No.D1/1489/1976 of the 4<sup>th</sup> respondent. Chukkamma is the paternal aunt of the writ petitioners, i.e., the sister of the father of the writ petitioners. She had no issues. Out of her love and affection towards the writ petitioners, she gifted the subject property to them under an unregistered Gift Deed, dated 14.06.1984. The said Gift Deed was regularised, on 14.06.1984, by the 4<sup>th</sup> respondent *vide* proceedings, dated 25.08.1995, in File No.C/299/1989. Pattadar Pass Books and Title Deed documents with Patta Nos.332 and 333 were given to the writ petitioners. Since the date of such acquisitions, the writ petitioners are in continuous and uninterrupted possession over their respective properties i.e., the afore-mentioned subject properties without any hindrance whatsoever. While so, the 1<sup>st</sup> petitioner received a notice, dated 03.09.2011, in Letter No.B/1057/2011 from the 4<sup>th</sup> respondent to attend an enquiry on the application made by the respondents 5 & 6. The 4<sup>th</sup> respondent made an enquiry as

regards the claim of the respondents 5 & 6 and came to know that the 5<sup>th</sup> respondent filed a collusive suit against the 6<sup>th</sup> respondent *vide* O.S.No.380 of 2008, on the file of Principal District Court, Ranga Reddy District, for partition and separate possession of the subject property by making a claim that the respondents 5 & 6 are the legal heirs i.e., daughter and second wife of the said Asha Singh. The writ petitioners were not parties to the said suit. The said suit was filed suppressing the true facts. Later respondents 5 & 6 compromised the said suit by filing a compromise petition before the Lok Adalat, Ranga Reddy District; and, the Lok Adalat passed an award, dated 24.04.2009, in the said suit; and, as per that award, it was declared that the respondents 5 & 6 are entitled to partition of the subject property between them equally. Relying on the said award, dated 24.04.2009, which was obtained by playing fraud on the Courts and the Adalat, the respondents 5 & 6 approached the 2<sup>nd</sup> respondent – Joint Collector-II, Ranga Reddy District, for correction of entries in the revenue records in respect of the subject property. Therefore, the 2<sup>nd</sup> respondent issued a letter, dated 26.05.2011, *vide* Letter No.D2/931/2011, to the 4<sup>th</sup> respondent to enquire into the matter. On such intimation, the 2<sup>nd</sup> respondent had issued the afore-mentioned letter, dated 03.09.2011, to the petitioners directing the writ petitioners to attend an enquiry. The writ petitioners appeared before the 4<sup>th</sup> respondent and submitted all their documents, which established their right and possession of the subject property. The 4<sup>th</sup> respondent submitted a report, dated 25.11.2011, *vide* Letter No.B/1057/2011, to the 2<sup>nd</sup> respondent appreciating the title of the predecessor and stating that the predecessor in title was in

possession of the subject property since 1950-51 onwards. His report revealed that Surjith Kaur's name was entered into the pattadar column of revenue records i.e., pahanies for the year 1972-73 as per the proceedings No.D1/3262/72. In fact, the property was mutated in the name of Chukkamma, she being the purchaser, from Surjith Kaur, the daughter of the original pattadar and her name was entered in the pahanies as per the proceedings No.D1/1489/1976. Thus, the revenue records evidence the fact that the writ petitioners are the absolute owners and possessors of the subject property and that the respondents 5 & 6 are unconcerned with the property and that the names of the respondents 5 & 6 do not find a place in the revenue records in respect of the subject property. However, the 2<sup>nd</sup> respondent took up *suo moto* proceedings under Section 9(3) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971, ('the Act of 1971', for brevity) for correction of entries in pahanies for the years 1972-73 to 2008-2009 in respect of the subject property. The 2<sup>nd</sup> respondent issued notices calling for explanation and production of relevant documents pertaining to the subject property. During the pendency of the revision before the 2<sup>nd</sup> respondent, the writ petitioners had noticed that award, dated 24.04.2009, was passed by the Lok Adalat in O.S.No.380 of 2008 between the respondents 5 & 6 and that the said award was obtained by fraud. Therefore, these writ petitioners filed suit in O.S.No.238 of 2012 (Old O.S.No.180 of 2012), on the file of the Additional District Court, Vikarabad, Ranga Reddy District, against the respondents 5 & 6 for declaration of the title of the writ petitioners and to declare that the award, dated 24.04.2009, in O.S.No.380 of 2009, before the

Lok Adalat is null, void and not binding on the writ petitioners. The respondents 5 & 6, having filed their written statement, are contesting the suit. Despite pendency of the said suit and without considering the report of the 4<sup>th</sup> respondent, dated 25.11.2011, and also the contentions of the writ petitioners, the 2<sup>nd</sup> respondent passed the impugned orders without assigning any reasons, much less valid reasons; and the 2<sup>nd</sup> respondent, in fact, exceeded his jurisdiction in passing the impugned orders and he even decided the title and possession of the subject property and declared the Title Deeds of the writ petitioners as null and void. The 2<sup>nd</sup> respondent did not appreciate the contention of the writ petitioners that the respondents 5 & 6 have not challenged the proceedings of the 4<sup>th</sup> respondent in Proceedings No.D1/3262/1972 and that they have obtained a collusive Lok Adalat award in a collusive suit in O.S.No.380 of 2008 and approached the Joint Collector directly. The 2<sup>nd</sup> respondent illegally invoked the jurisdiction and entertained a revision *suo motu* with regard to the proceedings and the entries, which were more than four decades old though the basis for the claim of respondents 5 & 6 is a collusive Lok Adalat award in a collusive suit. The 2<sup>nd</sup> respondent travelled beyond his jurisdiction in declaring that the respondents 5 & 6 are the legal heirs of the original pattadar Asha Singh without conducting any enquiry. The impugned orders reflect that the records were not traced out by the 4<sup>th</sup> respondent. However, the 2<sup>nd</sup> respondent passed the orders even in the absence of records in an unethical manner and contrary to law. The observations in the impugned orders of the 2<sup>nd</sup> respondent as regards physical possession are

absurd. Hence, the writ petition is filed assailing the orders of the 2<sup>nd</sup> respondent.'

**4.** On 30.01.2015, this Court admitted the writ petition and passed the following order in W.P.M.P.No.1936 of 2015:

"Prima facie, I am satisfied that the order dated 09.12.2014 passed by the 2<sup>nd</sup> respondent requires suspension especially considering the observation of the authority declaring the registered sale deeds and other documents since 1973 in favour of the petitioners and their predecessors in title as null and void and have no effect which goes against the settled principles of law.

Further, the compromise decree passed in O.S.No.380 of 20089, inter se, between respondents 5 and 6, who are mother and daughter, does not by itself be treated as declaring the rights of the parties, with respect to the title to the property, as it is only a decree apportioning the entitlement of the shares between mother and daughter and that by itself cannot be taken as having title in favour of respondents 5 and 6.

Hence, there shall be interim suspension, pending further orders."

**5.** The case of the non-official respondents 5 & 6 as stated in the counter affidavit filed by the 5<sup>th</sup> respondent, in brief, is this: The land admeasuring Ac.17.02 guntas in Survey No.273 of Singapur Village, Ranga Reddy District, was originally owned and possessed by the father of the 5<sup>th</sup> respondent Late Asha Singh. It is submitted that in 8<sup>th</sup> Thir, 1322 Fasli, the then Government of Hyderabad, under the regime of Nizam, through Letter No.747 of Sri Syed Hussain, Tahasildar of Taluka Southern Side, District Atraf Balda, had allotted the land Ac. 17.02 guntas and directed the Revenue Circle Inspector, Circle No.2, to give possession of the land by granting patta in Survey No.273 in the Village Singapur,

Ranga Reddy District (earlier called Atraf Balda District) in the name Late Asha Singh, S/o.Late Ram Singh, i.e., the father of the 5<sup>th</sup> respondent. A notice No.24, dated 07.07.1335 Falsi, was also issued in his name as pattadar demanding the arrears of land revenue of Rs.37-3-0 by the 1<sup>st</sup> Collector, District Atraf Balda. The said Late Asha Singh was in possession, occupation and enjoyment of the lands since the time of allotment and until his death in the year 1969. His name was also recorded in the revenue records. Asha Singh married one Sundar Bai. Asha Singh and Sundar Bai had no issues. Therefore, Asha Singh married Sant Kaur, the 6<sup>th</sup> respondent. The 5<sup>th</sup> respondent is the only daughter of Asha Singh and the 6<sup>th</sup> respondent. There are no other children. Asha Singh died intestate, on 21.12.1969, leaving behind his first wife Sundar Bai, his second wife Sant Kaur/6<sup>th</sup> respondent and Surjith Kaur, (this 5<sup>th</sup> respondent), his only daughter. As there was no partition, all the said three legal heirs of Asha Singh continued in joint possession of the property of Asha Singh. Since Sundar Bai and 6<sup>th</sup> respondent are the legally wedded wives of Asha Singh, they were sanctioned Family Pension by the Government equally. Sundar Bai died, on 13.02.1973, and the 6<sup>th</sup> respondent died, on 25.02.2015. After the deaths of Sundar Bai and the 6<sup>th</sup> respondent, the 5<sup>th</sup> respondent became the sole and absolute owner of the subject property. In the year 2008, the 5<sup>th</sup> respondent asked her mother, the 6<sup>th</sup> respondent, for partition of the property. Her mother refused to partition the property. Therefore, she filed O.S.No.380 of 2008 before the Principal District Court, Ranga Reddy District, and the said suit was amicably settled as per the persuasion by family well wishers and mediators. Thereafter, on

filing of the compromise petition, a compromise award was passed, on 04.04.2009. As per the award, the respondents 5 & 6 are entitled to Ac. 8.21 guntas each in the subject property. They both submitted Form-VI for mutation of properties in their names in the revenue records as per Rule 9 of the A.P. Rights in Land and Pattadar Pass Books Rules, 1989. During the course of enquiry, both the respondents 5 & 6 came to know that the names of some other persons, who have no legal right and claim over the subject property, were illegally recorded by the revenue authorities in respect of the subject property. On the application of the respondents 5 & 6, the Tahasildar issued notices to all concerned to attend enquiry and advised to approach the Collector for correction of entries, as the Tahasildar already entered names of some other persons and issued pattadar pass books to them and as the Tahasildar does not have any power in the matter. Therefore, the matter was represented before the Joint Collector and the Joint Collector took up a *suo motu* case and called for a report from the Tahasildar. In the report, the Tahasildar stated that the land is kept fallow since a long time and there is no cultivation or any other activity over the subject land. The Joint Collector received documents filed by both the parties and heard the submissions and came to a conclusion that the respondents 5 & 6 are the daughter and wife of Asha Singh and that they are the title holders of the land and that the transactions related to entering of the names of some others have no legal sanctity and that the Tahasildar granted succession to unconcerned persons, who were not related to original pattadar. The Joint Collector accordingly allowed the revision. When mutation was sought by a

successor, the Tahasildar is required to see material evidence in support of claim of succession. Without any piece of paper filed by Surjith Kaur that she is the legal heir and merely because she made an application, the property was mutated in her name without following the procedure and without proper enquiry and the said mutation order is passed behind the back of the original successors i.e., the first wife of Asha Singh and the respondents 5 & 6 herein, who are the real legal representatives and legal heirs. As such, the Joint Collector rightly allowed the revision.

**6.** No counter is filed by the official respondents. However, learned Government Pleader for Revenue stated that the order passed by the Joint Collector-II, Ranga Reddy District, 2<sup>nd</sup> respondent herein, is justified in the facts and circumstances of the case and that the said order is a well-reasoned order and that he is well within his jurisdiction when he passed the said orders and that in view of the pendency of the civil suit, the order of the 2<sup>nd</sup> respondent may be confirmed, as it is well settled that leaving it open all the issues to be decided in the pending civil suit and directing the parties to approach the revenue authority concerned for mutation of the property in revenue entries and issuance of pattadar pass books and title deed documents after the judgment is rendered in the civil suit subject to the entitlement of the successful party to such reliefs.

**7.** Learned counsel for the petitioners and the learned counsel for the respondents 5 & 6 reiterated the cases of the respective parties, which are stated supra in detail.

**8.** I have given earnest consideration to the facts and submissions.

**9.** In the light of the facts and contentions the question for consideration is – ‘whether the Order impugned is unsustainable under facts and in law?’

**10.** To sum up, the case of the writ petitioners is this: ‘Surjith Kaur is the daughter of Asha Singh, the original owner of the property. On the death of the Asha Singh, the property devolved upon Surjit Kaur and that the property was mutated in her name in the revenue records. She had sold the property to Chukkamma, under a registered Sale Deed, dated 24.08.1973. The said Chukkamma is the paternal aunt of the writ petitioners. She had no issues. Out of love and affection, she gifted her property to the writ petitioners, under unregistered Gift Deed, dated 14.06.1984. The said unregistered Gift Deed is regularized *vide* proceedings of the Tahasildar, dated 25.08.1995. Later the names of the writ petitioners are entered in the revenue records in respect of their respective properties. The 4<sup>th</sup> respondent – Tahasildar issued pattadar pass books and title deed documents with Patta Nos.332 and 333 respectively to the writ petitioners. The writ petitioners are the absolute owners & possessors of the subject property.’

**10.1** Learned counsel for the writ petitioners while reiterating their contentions strongly contended that the Surjith Kaur is the daughter of Asha Singh and that the respondents 5 & 6 are unconcerned with Asha Singh & his property and that the suit for partition and the Adalat Award passed in the said suit are

collusive proceedings between the respondents 5 & 6 and that their belated claim before the Joint Collector is untenable & unsustainable and that the Joint Collector ought not to have passed the impugned order on a belated claim made by the respondents 5 & 6 and in the light of the fact that during the pendency of the revision before the Joint Collector, the writ petitioners filed O.S.No.238 of 2012 (O.S.No.180 of 2012), on the file of Additional District Court, Vikarabad, Ranga Reddy District.

**10.2** However, the case of the 5<sup>th</sup> respondent, in brief, is this: 'She is the daughter of Asha Singh and his second wife, the 6<sup>th</sup> respondent herein (since died). The first wife of Asha Singh, Sundar Bai, was alive till 13.02.1973. The 5<sup>th</sup> respondent's mother, that is, the 6<sup>th</sup> respondent died intestate, on 21.12.1969. During the life time of her mother, the 5<sup>th</sup> respondent filed a suit for partition against her mother and that in that suit, an Award was passed by the Lok Adalt, on 04.04.2009. As per the said award, she and her mother, the 6<sup>th</sup> respondent, are having a half share each in the properties of Asha Singh. On the death of her mother, on 25.02.2015, she became the sole absolute owner of the property.

**10.3** The learned counsel for the 5<sup>th</sup> respondent contended that Surjith Kaur is not the daughter of Asha Singh and that she is unconcerned with the family of Asha Singh & his properties and that even assuming that Surjith Kaur is the daughter of Asha Singh, she has no right to claim absolute & exclusive right in the property of Asha Singh, as on the death of Asha Singh, Sundar Bai, who was alive was entitled to a share in the property of Asha

Singh and that therefore, the exclusive claim of Surjith Kaur over the property of Asha Singh is unsustainable and that she has no right to alienate the entire property of Asha Singh, in any view of the matter and that the allegation that Surjith Kaur is the daughter of Asha Singh is denied by the respondents 5 & 6 and that the specific case of the 5<sup>th</sup> respondent is that she is the only daughter of Asha Singh through his second wife, the 6<sup>th</sup> respondent (since died), and that Asha Singh and his first wife Sundar Bai had no issues and hence, the claim that Surjith Kaur became absolute owner having succeeded to the properties of Asha Singh on his intestate death is absolutely false. Learned counsel for the 5<sup>th</sup> respondent further submitted as follows: 'O.S.No.380 of 2008, on the file of Principal District Judge, Ranga Reddy District, for partition filed by the 5<sup>th</sup> respondent against the 6<sup>th</sup> respondent ended in a compromise. An award, dated 04.04.2009, was passed by the Lok Adalat in the said suit. The said Lok Adalat award in the suit for partition is true & valid. It is not one obtained by fraud or collusion, as alleged by the writ petitioners. When the respondents 5 & 6 wanted mutation of the property in their names as per the Lok Adalat award, they came to know that the revenue entries were carried out in the names of Surjith Kaur and Chukkamma in collusion with the revenue authorities without ascertaining the particulars of legal heirs of Asha Singh. The said entries were made behind the back of the respondents 5 & 6. Therefore, they approached the revenue authorities for appropriate remedies. The Joint Collector is the competent authority. He is justified in passing the impugned order, in the facts and circumstances of the case. His order, which is impugned by the

writ petitioners reflects that no piece of paper is filed to show that Surjith Kaur is the daughter of Asha Singh, whereas the 5<sup>th</sup> respondent filed overwhelming record before the Collector to show that the second revision petitioner therein, i.e., the 6<sup>th</sup> respondent herein, is one of the surviving wives of Asha Singh and that the Government granted pension equally to the two wives of Late Asha Singh including the 6<sup>th</sup> respondent and that they drew family pensions during their life times. Some of the documents that were filed before the authority are the pension payment order and the United Bank of India Savings Bank Account No.0995010040053 into which Family Pension is being credited. The said documents show that pension was granted by the Government to the first wife and the second wife (6<sup>th</sup> respondent) of Asha Singh and that they were drawing pension equally from the successive Governments. The 5<sup>th</sup> respondent also filed her school record showing that she is the daughter of Asha Singh. The respondents 5 & 6 also produced the Death Certificate of Asha Singh besides other record. Thus, the respondents 5 & 6 filed documents, which are all public documents to show that they are the legal heirs of Asha Singh, whereas, not even a single document is filed by the writ petitioners to show the relationship of Surjith Kaur with Asha Singh. The Civil Court's judgment in the partition suit is rightly followed by the Joint Collector. It is for the writ petitioners to pursue the suit filed by them and their writ petition is not maintainable. Hence, the writ petition is liable to be dismissed.'

11. On the analysis of the facts and contentions, it is evident that a complex question of fact is raised in this writ proceeding. No doubt in this writ petition, the writ petitioners claim that Surjith Kaur, the predecessor in title, is the daughter of Asha Singh. Admittedly, they did not produce any document to show her relationship with Late Asha Singh, whereas the respondents 5 & 6 are claiming, as noted supra, that Sundar Bai, who died intestate after the death of her husband Asha Singh, had no issues and that, therefore, Asha Singh, during his life time, married the 6<sup>th</sup> respondent and that the 5<sup>th</sup> respondent is the only daughter of Asha Singh & 6<sup>th</sup> respondent and that on the intestate death of Asha Singh & Sunder Bai and also her mother, the 5<sup>th</sup> respondent became the absolute exclusive owner and possessor of the subject property. Therefore, whether Surjith Kaur is the daughter of Asha Singh, as being claimed by the writ petitioners; or whether the respondents 5 & 6 are the daughter and second wife of Asha Singh are the two complex factual issues, which are to be resolved in the civil suit, which is pending before the competent Court in Ranga Reddy District. The decision on the said issues would resolve the controversy to a large extent and the findings on other issues/incidental issues, if any, would depend upon the findings on the two afore-stated principal issues. Therefore, the civil Court is only competent to resolve the dispute and give a quietus and there is no need for this Court to go into the said issues and resolve the factual controversies, more particularly when a civil suit is already filed and pending, a civil Court is seized of the matter.

**12.** No doubt *suo motu* revision petition is entertained by the District Collector in the year 2012 based on a Lok Adalat award, dated 24.04.2009, in a civil suit in O.S.No.380 of 2008 for correction of entries in the pahanies for the years 1972-73 to 2008-09. However, learned counsel appearing for the respondents 5 & 6 contended that in the peculiar facts of the case, particularly in the light of the fact that there is an award of the Lok Adalat in a civil suit and the Joint Collector is entitled to decide succession, the revision order is sustainable, subject to the result of the civil suit, as in the civil suit, which is filed by the writ petitioners, which is comprehensive, all the issues will be resolved once and for all and, hence, this Court need not interfere with the impugned order passed by the Joint Collector.

**13.** Learned counsel for the writ petitioners placed reliance on the decision of the Supreme Court reported in **State of H.P. and Ors. v. Rajkumar Brijender Singh and Ors.**<sup>1</sup> in support of the contention that even though no time limit is fixed for entertaining a *suo motu* revision by a quasi-judicial authority, such power should be exercised within a reasonable time and that in the case on hand, the Joint Collector committed a grave error in entertaining the proceedings after an inordinate delay. However, learned counsel appearing for the 5<sup>th</sup> respondent pointed out that what is a reasonable time within which such *suo motu* power of revision can be exercised depends upon the facts and circumstances of a case. She placed reliance on the decision reported in **Peruri Venkata Chinna Krishnaiah v. Joint Collector, Kakinada, East Godavari District and**

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<sup>1</sup> (2004) 10 SCC 585

**others**<sup>2</sup> in support of the contention that despite pendency of a civil suit, the order of revisional authority is not a nullity and without jurisdiction. The Division Bench of this Court in the above cited decision first referred to Section 5(5) of the Andhra Pradesh Rights in Land and Pattedar Passbooks Act, 1971, which reads as follows:

“S.5 Against every order of the Mandal Revenue Officer either making an amendment in the record of rights or refusing to make such an amendment, an appeal shall lie to the Revenue Divisional officer or such authority as may be prescribed, within a period of sixty days from the date of communication of the said order and the decision of the appellate authority thereon shall subject to the provisions of Section 9, be final.”

Further, the Division Bench of this Court held as follows:

“In this case, the revenue record was amended on the strength of an alleged will. If it is an order within the meaning of Section 5(5) of the Act, we are unable to accept the contention that the appellate authority has no jurisdiction to decide when the suit was pending. However, the finality will reach subject to Section 8(2) of the Act, which reads as under:

“8(2). If any person is aggrieved as to any rights of which he is in possession by an entry made in any record of rights he may institute a suit against any person denying or interested to deny his title to such right for declaration of his right under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963) and the entry in the record of rights shall be amended in accordance with any such declaration.”

Accordingly, as this contention fails, we do not find any law that fetters the power of the statutory authorities, namely the appellate authority and the revisional authority to scrutinize act and action of Mandal Revenue Officer.”

**14.** Having regard to the facts and circumstances of the case, the delay in entertaining the *suo motu* revision, in the considered view of this Court, requires no countenance for the reason that as the

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<sup>2</sup> 2014 (6) ALD 692 (DB)

things stand as on today, the core issues are – ‘Whether Surjith Kaur is the daughter of Asha Singh?’ ‘Whether the 5<sup>th</sup> respondent is the only daughter of Asha Singh & 6<sup>th</sup> respondent?’ Therefore, suffice if it is mentioned that the order impugned of the 2<sup>nd</sup> respondent will be subject to the decision of the civil Court where the civil Court will decide the afore-stated issues and other issues being the competent Court having jurisdiction. Be it noted that when a person approaches a Court of Equity in exercise of its extraordinary jurisdiction, under Article 226 of the Constitution, such person should approach the Court not only with clean hands but also with clean mind, clean heart and clean objective. Equally, the judicial process should never become an instrument of oppression or abuse or a means in the process of the Court to subvert justice. Who seeks equity must do equity. The legal maxim "*Jure naturaw aequum est neminum cum alterius detrimento et injuria fieri locupletioem*", means that it is a law of nature that one should not be enriched by the loss or injury to another. [vide: The Ramjas Foundation and Ors. v. Union of India and Ors: AIR 1993 SC 852; K.P. Srinivas v. R.M. Premchand and Ors.: (1994) 6 SCC 620 and Nooruddin v. (Dr.) K.L. Anand (1995) 1 SCC 242)]. Similarly in the decision in Ramniklal N. Bhutta and Anr. v. State of Maharashtra and Ors. [AIR 1997 SC 1236], the Supreme Court observed as under:

“The power under Article 226 is discretionary. It will be exercised only in furtherance of interest of justice and not merely on the making out of a legal point...the interest of justice and the public interest coalesce. They are very often one and the same....”

The Courts have to weigh the public interest *vis-à-vis* the private interest while exercising any of their discretionary powers. Since

there are rival claims in respect of the subject property and for all the reasons afore-stated, this Court is of the considered view that this is not a fit case to exercise discretionary jurisdiction in favour of the writ petitioners. The point is accordingly answered holding that the order impugned does not brook interference.

**15.** On the above analysis, this Court finds that this writ petition can be disposed of with appropriate directions.

**16.** In the result, the Writ Petition is disposed of with the observation that the order of the revisional authority/2<sup>nd</sup> respondent, which is impugned in this writ petition will be subject to the decision of the civil Court in O.S.No.238 of 2012 (Old O.S.No.180 of 2012), on the file of Additional District Court, Vikarabad, Ranga Reddy District, which is stated to be at the advanced stage of trial. It is needless to state that the learned Additional District Judge shall decide the said suit on its merit, however, uninfluenced by the observations, if any, in the orders, of the quasi judicial authorities including the orders, which are impugned in this writ petition. It is also made clear that this Court did not express any opinion, much less, a final opinion on the merits of the matter.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

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**JUSTICE M. SEETHARAMA MURTI**

Date: 3<sup>rd</sup> October, 2018

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**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI****WRIT PETITION No.1456 of 2015**Date: 3<sup>rd</sup> October, 2018

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