HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.2240 OF 2017

ORDER:

The proceedings issued by the Revenue Divisional Officer, Chittoor-3rd respondent herein, vide D.Dis.No.1393 of 2010, dated 21.12.2016, is under challenge in the present writ petition.

2. Undisputedly, brief facts for the purpose of the disposal of the writ petition are that:

Petitioners are owners of the land in Survey No.1 of Nandanur Village, G.D. Nellore Mandal, Chittoor District; they claim that the said lands are their ancestral properties and in the revenue records also, their names were mutated and as a matter of fact, pattadar pass books were also issued in their favour as far back as on 20.06.1998; however, on the representation made by the 5th respondent, impugned proceedings came to be passed, whereby, the pattadar passbooks granted in favour of the petitioners were cancelled.

3. It is the submission of the learned counsel for the petitioners that as per law, the 3rd respondent has no authority to cancel the pattadar passbooks issued in favour of the petitioners and as a matter of fact, the appeal alleged to have been filed by the 5th respondent is only a representation and further the said appeal itself is not maintainable, since

the same is filed after lapse of a long time and moreover, no such application for condoning the delay is filed. He would further contend that the Division Bench of this Court in ***Ratnamma v. Revenue Divisional Officer, Dharmavaram, Anantapur District and others***[1] held that the Revenue Divisional Officer has no authority to cancel the pattas granted in favour of a party without setting aside the proceedings. He would also further contend that this Court in ***Kencharayappa and another v. State of Andhra Pradesh and others***[2] held that no appeal would be maintainable with respect to granting of pattas after one year.

4. On the otherhand, Sri Virupaksha Dattatreya Gouda, learned counsel appearing for the 5th respondent, drawn the attention of this Court to the impugned proceedings, particularly Paras 3(v) and 5(H), submits that there is no material available to support the claim of the petitioners and as a matter of fact, the petitioners have played fraud and obtained the pattadar passbooks in collusion with the then Mandal Revenue Officer without there being any right whatsoever. It is further contended by the learned counsel that the petitioner's father claims to have purchased the said land through registered sale deed bearing No.3001/1979, dated 21.06.1979 and other ancestral properties, the details of which are mentioned in the counter affidavit. In those

---

[1] 2015 (6) ALD 609 (DB)
[2] 2015 (3) ALD 487

circumstances, the learned counsel submits that in view of the fraud played by the petitioners and there being no material record available to support the claim of the petitioners for grant of pattas and title deeds, the Revenue Divisional Officer rightly exercised the jurisdiction to correct the errors.

5. Having considered the respective submissions and having gone through the legal provisions and the judgments cited at the Bar, notwithstanding the findings recorded by the 3rd respondent that documentary evidence was not produced to support the claim of the petitioners, the impugned order is liable to be set aside on the simple ground of lack of jurisdiction, as held by this Court.

6. Since the legal position is settled in this regard, the power of appeal that can be exercised by the Revenue Divisional Officer, interms of Section 5(5) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (hereinafter, 'the Act') read with the Rules made thereunder, is in relation to the entries made in the revenue records, specifically, the cases falling under Section 4 of the Act. Only to the limited extent, power is granted in favour of the recording authority under Section 5(6) of the Act to make corrections to the clerical errors, if any, in the pass books. Present case is not one such case filing under Section 5(6) of the Act. A conjoint reading of Sections 3, 4, 5 and 9 of the

Act, leaves no manner of doubt that if any correction is required to be made with respect to the entries in the revenue record or grant of pattas after the initial one year or thereafter, the only remedy available to the party is to approach the authorities prescribed under Section 9 of the Act. The authority being the Joint Collector, the impugned order cannot be sustained and accordingly, the same is set aside, leaving it open to the 5th respondent to approach the prescribed authority under the Act.

7. It is also made clear that the observations made in the present case are limited to the extent of disposal of this writ petition, and that it shall not be construed as expressing any opinion with respect to the rights of the parties. In as much as specific allegations of fraud and creation of documents have been made against the revenue officials, in collusion with the petitioners, by the 5th respondent and also considering the fact, *prima facie*, that the claim of the 5th respondent is based on the registered sale deeds of the year 1979, as and when the 5th respondent approaches the authorities concerned by filing the appropriate application, the same shall be disposed of within four months thereafter. In the event the revisional authority finds either complacency or miscreants of the revenue officials to create the forged documents, necessary criminal proceedings also shall be initiated against the concerned.

7. Accordingly and with the above observations, this writ petition is allowed. Miscellaneous petitions pending consideration, if any, in this case shall stand closed as a consequence. There shall be no order as to costs.

CHALLA KODANDA RAM, J

02.01.2018
SS