

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.6787 OF 2017

ORDER:

This civil revision petition is preferred under Section 91 of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short "the Act") challenging the order dated 10.08.2017 passed in review No.F1/ 1 A-04 /2014 in Appeal No.F1/1A-01/2009 by the Joint Collector-II, Mahabubnagar District.

The petitioners herein are the respondents and the respondents herein are the petitioners in the petition before the Joint Collector and they will be referred to as petitioners and respondents as arrayed in this revision.

The factual matrix of the case, as alleged, in brief as follows:

One Kolla Peddanna was the protected tenant of lands bearing Nos.123, 124 and 125 situated at Tekulampally Village of Makthal Mandal, Mahabubnagar District. He was granted certificate under Section 38-E of the Act vide proceedings of the Revenue Divisional Officer (for short "R.D.O"), Naryanpet in file No.E/2269/75. After the death of Kolla Peddanna, his son Kolla Buddana succeeded the property and sold an extent of Ac.6-31 Gts. in Sy. No. 125 to Kolla Linganna, S/o Chinnaiah through Registered Sale Deed No.639/96 dated 14.10.1996. Kolla Linganna after purchase of the property approached the Mandal Revenue Officer, Makthal for mutation in respect of land admeasuring Ac.6-31 Gts., in Sy.No.125 vide registered sale deed No.639/96

dated 14.10.1996. Thereafter, the said Kolla Linganna sold the land admeasuring Ac.6-31 Gts in Sy. No. 125 situated at Tekulappally Village, Makthal Mandal, Mahabubnagar District in favour of B.Somaiah and A. Mareppa by executing registered sale deeds No. 1249/2006 dated 01.06.2006 and document No.1250/2006 dated 01.06.2006. Ever since the purchase of land in Sy.No.125 admeasuring Ac.6-31 Gts, said B.Somaiah and A. Mareppa's respective names were recorded in the Revenue records and they are in exclusive possession and enjoyment of the said lands along with their family members.

The Respondent Nos.4 to 6 herein filed a Petition under Section 19 read with Section 40 of the Act read with Section 151 Civil Procedure Code (for short "C.P.C.") before the R.D.O, Narayanpet - respondent No. 2 herein, challenging the entries made in ROR in respect of land in Sy.No. 125 to an extent of Ac. 13-21 Gnts., situated at Tekulampally Village of Makthal Mandal, Mahabubnagar District. The R.D.O, Narayanpet dismissed the petition on 06.09.2008 in file No.B /963/ 2007. Aggrieved by the order of the R.D.O, Narayanpet in file No.B/963/2007 dated 06.09.2008, the respondent Nos.4 to 6 herein preferred an Appeal before the respondent No.1 i.e. Joint Collector, Mahabubnagar under Section 90 of the Act . The Joint Collector Mahabubnagar District after giving reasonable opportunity to the parties passed a reasoned order, dismissing the Appeal on 07.12.2013 in file No.Fl/ 1A-01/2009.

After dismissal of the Appeal in the year 2013, the respondent Nos.4 to 6 herein filed an application before the respondent No. 1 i.e Joint Collector, Mahabubnagar under Order XLVII Rule 1 read with Section 114 of C.P.C seeking Review of the order dated 07.12.2013 in file No.F1/1 A-01/2009, which is not maintainable in law in as much as no power of Review conferred under the Tenancy Act to the Joint Collector.

While the matter was pending before the respondent No.1 - Joint Collector, Mahabubnagar, B.Somaiah (who was figured as Respondent No.4 in Review Petition No.F1/1A-04/2014 before the Joint Collector, Mahabubnagar) died on 22.03.2015 leaving behind petitioners No.2 to 7 herein as legal heirs. The respondent Nos.4 to 6 herein were aware of the said fact as the respondent No.4 to 6 filed C.M.A.No.1039/2014 before this Court challenging the order/decreed passed in I.A. No.477/2013 in O.S.No.78/2013, dated 21.07.2014. In the said appeal the respondent Nos.4 to 6 took steps to bring the petitioners No.2 to 7 herein as legal representatives of B.Somaiah vide CMAMP No.944/2015 dated 06.07.2015. In spite of the said fact, respondent Nos.4 to 6 herein did not take any steps to bring the petitioner Nos.2 to 7 herein as legal representatives of B.Somaiah who was figured as respondent No.4 in the Review Petition No. F1/1A-04/2014 before the Joint Collector, Mahabubnagar and proceeded with the matter.

Similarly, A. Mareppa (who was figured as respondent No.5 in Review Petition No.F1/1A-04/2014 before the Joint Collector, Mahabubnagar) died on 13.06.2017 leaving behind Petitioner

Nos.9 to 11 herein as legal heirs. The counsel for the petitioner Nos.9 to 11 filed a Memo on 05.08.2017 before the respondent No.1 stating that respondent No.5 therein died on 13.06.2017 and furnished the details of legal representatives of the deceased A. Mareppa. The Counsel for the Petitioners No.9 to 11 filed an application stating that a Memo was filed on 05.08.2017 alleging that A.Mareppa died on 13.06.2017 and steps may be taken to bring the legal representatives of the deceased A.Mareppa on record. The respondent No.1 in spite of being informed about the death of A.Mareppa by way of filing a memo on 05.08.2017 and petition on 26.08.2017, passed the impugned order.

The main grounds urged in the revision are

- (a) The Joint Collector has no power of review since the Act did not confer such power of review on the Joint Collector.
- (b) Passing an order reviewing the original order without impleading the legal heirs of the deceased B.Somaiah and A.Mareppa is grave illegality and it amounts playing fraud on the joint collector by the respondent Nos.4 to 6.
- (c) The Joint Collector failed to consider the facts in proper perspective, consequently the order is illegal and irregular and the same is liable to be set-aside by exercising power under Section 91 of the Act.

Sri N.Vasudeva Reddy, learned counsel for the petitioners, reiterated the contentions raised in the revision while contending

that the order passed by the Joint Collector is vitiated by fraud as the legal heirs of the deceased B.Somaiah and A. Mareppa were not impleaded though the respondent Nos.4 to 6 herein are aware of the factum of death of B.Somaiah and A.Mareppa and notices are not served on B.Somaiah and A.Mareppa prior to filing of the review petition, and without serving notices, Joint Collector passed the order, which is a serious illegality. No power of review was conferred by the special enactment on the authorities under the Act to review their own order and unless such power is conferred on the Joint Collector or any other authority, exercise of power to review their own order is a serious illegality in view of the judgment of the Apex Court rendered in "**Manick Chandra Sasmal v. Rabindra Nath De**¹". It is further contended that when no power is conferred on the authorities, remanding the dispute to the primary authority is another illegality and resubmitting them to set aside the same.

Sri N.Ashok Kumar, learned counsel for the respondents, mainly urged that the revision is not amenable under Section 91 of the Act as the revision is maintainable against the final order, but review is not a final order. Therefore, the order passed by the Joint Collector is not amenable to jurisdiction of this Court under Section 91 of the Act, in view of the law laid down by this Court in "**Yerraboth Sathiah v. Edla Chaliah**²" "**Kurva Mallamma v. Kupireddy Sasthri**³" "**Mothukuri Ranga Rao v. Royyala**

¹ (2015) 16 SCC 409

² 1960 (1) ALT 191 (S.B.)

³ 2001 (1) ALT 382

Laxminarayan⁴". He further contended that unless power is conferred on the authorities under the Act, they cannot exercise power of review, when the Section 89 (2) of the Act itself prescribed the procedure to be followed by interpreting section 89(2) of the Act. This Court in "**Radha Bai v. Banka Chinnayya⁵**", "**Gandaiah v. Government of Andhra Pradesh⁶**", "**G. Venu Gopal Reddy v. P. Anantha Reddy⁷**" held that the authorities under the Act are competent to exercise power of review and the procedure prescribed under the Telangana Land Revenue Act has to be followed for deciding the dispute under the Act. Therefore, the authorities are competent to exercise such power of review under the Act. He also further contended that the order passed by the Joint Collector is only remand of the matter to the primary authority, which is not amenable to the revisional jurisdiction under Section 91 of the Act and prayed to dismiss the revision.

Considering the rival submissions and perusing the material available on record, points that arises for consideration is as follows:

- 1. Whether the order under the challenge is final order?**
- 2. Whether the revision lies under Section 91 of the Act?**
- 3. Whether the failure to implead the legal heirs of the deceased B. Somaiah and A. Mareppa vitiates the entire proceedings? If not, whether the order is liable to be**

⁴ 2008 (3) ALD 311

⁵ AIR 1968 Andhra Pradesh 353

⁶ 2001 (2) ALT 604

⁷ 2002 (1) An.W.R. 59 (A.P.)

reversed or set aside by exercising power under Section 91 of the Act?

P O I N T Nos.1 & 2:

As per the facts narrated above, the Joint Collector dismissed the petition by order dated 07.12.2013 in appeal No.F1/1A-01/2009 confirming the order passed by the R.D.O. Review petition is filed to review the order passed by the Joint Collector and the Joint Collector passed the order under challenge in F1/1A-04/2014 in appeal No. F 1/1A-01/2009 .The Joint Collector, upon hearing, reviewed the order and allowed the review petition reversing the order dated 07.12.2013 in file No .F1/1A- 01/2009 by setting aside the order dated 06.09.2008 in file No.B/963/2007 passed by the Revenue Divisional Officer, Narayanapet, and remanded to the Revenue Divisional Officer, Narayanapet, for fresh consideration and disposal by giving adequate opportunity to both the parties.

The contention of Sri N.Ashok Kumar, learned counsel for the respondents, is very specific that the order of remand R.D.O. by the Joint Collector reviewing his own order in appeal does not amount to final order as it did not acquire finality, which terminates or culminates the entire proceedings. Therefore, the order is not final order, against which no revision is maintainable under Section 91 of the Act; whereas the learned counsel for the petitioners contended that the order is not final, it is simple remand to the primary authority, but the order of the

R.D.O. was set aside and against such order, revision is maintainable under Section 91 of the Act. In view of rival contentions, it is apposite to extract the Section 91 of the Act hereunder:

"91. Revisions: Notwithstanding anything contained in this Act or any other law for the time being in force, an application for revision shall lie to the High Court from any final order passed on appeal by the Collector or Board of Revenue on the following grounds:

- a) That the original or appellate authority exercised a jurisdiction not vested in it by law; or
- b) that the original or appellate authority failed to exercise a jurisdiction so vested; or
- c) in following the procedure or passing the order, the original or appellate authority acted illegally or with material irregularity."

Thus, the language used in Section 91 of the Act indicates that if the order is final order, a revision would lie before the High Court against the order passed by the Collector or Board of Revenue. But, the word "final order" is not defined under the Act.

The meaning of the word "final order" has to be gathered from the law laid down by various Courts.

The Code of Civil Procedure or Civil Rules of Practice did not define the word '**Interlocutory Order**', though, the word '**Final Order**' is referred under Section 91 of the Act. Therefore, the Courts in India by placing reliance on the judgment of various Foreign Courts started defining the word '**interlocutory order**' commencing from **S. Kuppaswami Rao v. The King**⁸ and Mohan

⁸ AIR 1949 FC 1

Lal Magan Lal thacker v. State of Gujarat⁹

Though the term '**interlocutory order**' is not defined in the Code, according to Webster's New Twentieth Century Dictionary, in law '**interlocutory order**' means '**an intermediate**; not final or definitive; pronounced during the course of a suit, pending final decision, as an interlocutory divorce decree. The **Corpus Juris Secundum** (Volume 60) defines '**interlocutory order**' thus: The word 'interlocutory', as applied to rulings and orders by the Trial Court, has been variously defined. It refers to all orders, rulings, and decisions made by the trial court from the inception of an action to its final determination. It means, not that which decides the cause, but that which only settles some intervening matter relating to the cause. An interlocutory order is an order entered pending a cause, deciding some point or matter essential to the progress of the suit and collateral to the issues formed by the pleadings and not a final decision or judgment on the matter in issue. An intermediate order has been defined as one made between the commencement of an action and the entry of the judgment.

In **Central Bank of India v. Gokul Chand**¹⁰ the Apex Court while describing the incidents of an interlocutory order, observed as follows:

“In the context of Section 38(1), the words "every order of the Controller made under this Act", though very wide, do not include interlocutory orders, which are merely procedural and do not affect the rights or liabilities of the

⁹ AIR 1968 SC 733

¹⁰ 1967 SC 799, 800

parties. In a pending proceeding the Controller, may pass many interlocutory orders under Ss. 36 and 37, such as orders regarding the summoning of witnesses, discovery, production and inspection of documents, issue of a commission for examination of witnesses, inspection of premises, fixing a date of hearing and the admissibility of a document or the relevancy of a question. All these interlocutory orders are steps taken towards the final adjudication and for assisting the parties in the prosecution of their case in the pending proceeding; they regulate the procedure, only and do not affect any right or liability of the parties. "The aforesaid decision clearly illustrates the nature and incidents of an interlocutory order and the incidents given by this Court constitute sufficient guidelines to interpret the connotation of the word "interlocutory order" as appearing in Sub-section (2) of S. 397 of the 1973 Code."

Interlocutory orders are steps taken towards the final adjudication and for assisting the parties in the prosecution of their case in the pending proceeding without affecting the rights and liabilities of the parties. Thus, the order passed in the review, remanding the dispute to R.D.O. do not affect the rights of the parties, such order can be described as an interlocutory order.

In Webster's Third International Dictionary (Vol. II, p. 1170) the expression 'interlocutory order' has been defined thus:

"not final or definitive; made or done during the progress of an action; INTERMEDIATE PROVISIONAL".

Stroud's Judicial Dictionary (Fourth Edition, Vol. 3, p. 1410) defines the interlocutory order as " 'Interlocutory order' (Judicature Act 1873 (c.66), s. 25(8) was not confined to an order made between writ and final judgment, but means an order other than final judgment."

According to Stroud, interlocutory order means an order other than a final judgment. This was the view taken in the case of

Smith v. Cowell¹¹ and followed in **Manchester & Liverpool Bank**

v. Parkinson¹². Similarly, the term 'final order' has been defined in volume 2 of the same Dictionary (p. 1037) thus:

"The judgment of a Divisional Court on an appeal from a county court in an interpleader issue, was a 'final order' within the old R.S., Ord. 58, r. 3 (Hughes v. Little, 18 Q.B.D. 32); so was an order on further consideration (Cummins v. Herron, 4 Ch. D. 787); unless action was not thereby concluded. But an order under the old R.S.C., ord. 25, r. 3, dismissing an action on a point of law raised by the pleadings was not 'final' within the old Ord. 58, r. 3, because had the decisions been the other way the action would have proceeded."

Halsbury's Laws of England (Third Edition, Vol. 22, pp. 743-744) describes an interlocutory or final order thus:

"Interlocutory judgment or order: An order which does not deal with the final rights of the parties, but either (1) is made before judgment, and gives no final decision on the matters in dispute, but is merely on a matter of procedure, or (2) is made after judgment, and merely directs how the declarations of right already given in the final judgment are to be worked out, is termed 'interlocutory'. An interlocutory order, though not conclusive of the main dispute, may be conclusive as to the subordinate matter with which it deals....."

In general a judgment or order which determines the principal matter in question is termed 'final'."

"At page 743 of the same volume, Blackstone says thus: "Final judgments are such as at once put an end to the action by declaring that the plaintiff has either entitled himself, or has not, to recover the remedy he sues for..... Four different tests for ascertaining the finality of a judgment or order have been suggested:

- (1) Was the order made upon an application such that a decision in favour of either party would determine the main dispute?
- (2) Was it made upon an application upon which the main dispute could have been decided?
- (3) Does the order, as made, determine the dispute?

¹¹ (1880) 6 QBD 75

¹² (1889) 22 QBD 175

(4) If the order in question is reversed, would the action have to go on."

Corpus Juris Secundum (Vol. 49 p. 35) defines interlocutory order thus:

"A final judgment is one which disposes of the cause both as to the subject matter and the parties as far as the court has power to dispose of it, while an interlocutory judgment is one which reserves or leaves some further question or direction for future determination Generally, however, a final judgment is one which disposes of the cause both as to the subject matter and the parties as far as the court has power to dispose of it, while an interlocutory judgment is one which does not so dispose of the cause, but reserves or leaves some further question or direction for future determination..... .. The term "interlocutory judgment" is, however, a convenient one to indicate the determination of steps or proceedings in a cause preliminary to final judgment, and in such sense the term is in constant and general use even in code states."

Similarly, Volume 60 of the same series at page 7 seeks to draw a distinction between an interlocutory and a final order thus:

"The word "interlocutory", as applied to rulings and orders by the trial court, has been variously defined. It refers to all orders, rulings, and decisions made by the trial court from the inception of an action to its final determination. It means, not that which decides the cause, but that which only settles some intervening matter relating to the cause. An interlocutory order is an order entered pending a cause deciding some point or matter essential to the progress of the suit and collateral to the issues formed by the pleadings and not a final decision or judgment on the matter in issue .. An intermediate order has been defined as one made between the commencement of an action and the entry of the judgment."

Thus, while determining the order under challenge and impugned in the revision as interlocutory or final, the above tests have to be applied.

But, in the case of *Ex Parte Moore In Re Faithfull*, Lord Selbome while defining a final judgment observed as follows:

"To constitute an order a final judgment nothing more is necessary than that there should be a proper *litis contestatio*, and a final adjudication between the parties to it on the merits.

Similarly, Brett, M.R. Observed as follows:

"The question is whether in the Chancery Division there cannot be a "final judgment" when everything which has to be done by the Court itself is finished. Is that a final judgment which directs certain things to be done and certain inquiries to be made, and certain other things to be done on those inquiries being answered ? If the Court ordered the result of the inquiries to be reported to itself before the judgment was given, it would not be a final judgment. But, if the Court orders something to be done according to the answer to the inquiries, without any further reference to itself, the judgment is final."

Wharton's Law Lexicon (14th Edition, p. 529) defines interlocutory order thus:

"An interlocutory order or judgment is one made or given during the progress of an action, but which does not finally dispose of the rights of the parties."

Summing up the natural and logical meaning of an interlocutory order, the conclusion is inescapable that an order which does not terminate the proceedings or finally decides the rights of the parties is only an interlocutory order. In other words, in ordinary sense of the term, an interlocutory order is one which only decides a particular aspect or a particular issue or a particular matter in a proceeding, suit or trial but which does not however conclude the trial at all. This would be the result if the term interlocutory order is interpreted in its natural and logical sense without having resort to Civil Procedure Code or any other

statute. If, interlocutory order in ordinary parlance is construed, it would indicate the attributes, mentioned above, and this is what the term interlocutory order means when used in the Act, examine the true intent and import of an interlocutory order.

Coming to the Indian law as to the definition of interlocutory order, in **S. Kuppaswami Rao v. The King** (referred supra), the Federal Court held that the tests which had to be applied to determine whether an order was a final order were the same both in respect of orders in civil proceedings as well as orders in criminal proceedings. The Federal Court with the approval of **Salaman v. Waner**¹³, the following interpretation of the expression "final order" is as given:- "If their decision, whichever way it is given, will, if it stands, finally dispose of the matter in dispute, I think that for the purposes of these rules it is final. On the other hand, if their decision, if given in one way, will finally dispose of the matter in dispute, but if given in the other will allow the action to go on, then I think it is not final, but interlocutory.

In **Mohan Lal Magan Lal thacker v. State of Gujarat** (referred supra), the Apex Court drawn distinction between 'final order' and 'interlocutory order' , based on the definition of Halsbury's Laws of England (3rd Edition Volume 22 pg 742-742), the following four tests are required to be applied.

(1) Was the order made upon an application such that a decision in favour of either party would determine the main dispute?

¹³ (1891) 1 Q.B. 734

(2) Was it made upon an application upon which the main dispute could have been decided?

(3) Does the order, as made, determine the dispute?

(4) If the order in question is reversed, would the action have to go on.

In another judgment reported in **Ramesh v. Patni**¹⁴, the Hon'ble Apex Court expressed similar view, where the question was whether an order passed by the Claims Officer under the Madhya Pradesh Abolition of Proprietary Rights Act, 1950 under Section 22(1) of the Act was questioned before the High Court on the ground that the Commissioner had no jurisdiction to entertain or try the appeal, but High Court dismissed the petition, summarily holding that it was not final order and it did not decide the controversy between the parties and did not of its own force affect the rights of the parties or put an end to the controversy. Thereupon, the Apex Court observed as follows:

1. *"that the word 'proceeding' in Art. 133 was a word of a very wide import;*
2. *that the contention that the order was not final because it did not conclude the dispute between the parties would have had force if it was passed in the exercise of the appellate or revisional jurisdiction of the High Court, as an order of the High Court passed in an appeal or revision would not be final if the suit or proceeding from which there was such an appeal or revision remained still alive after the High Court's order;*
3. *but a petition under Art. 226 was a proceeding independent of the original controversy between the parties; the question therein would be whether a proceeding before a Tribunal or an authority or a court should be quashed on the ground of want of jurisdiction or on other well recognized grounds and that the decision in such a petition,*

¹⁴ [1966] 3 S.C.R. 198

whether interfering or declining to interfere, was a final decision so far as the petition was concerned and the finality of such an order could not be judged by co-relating it with the original controversy between the parties. The Court, however, observed that all such orders would not always be final and that in each case it would have to be ascertained what had the High Court decided and what was the effect of the order. If, for instance, the jurisdiction of the inferior tribunal was challenged and the High Court either upheld it or did not, its order would be final.”

The test laid down by the Constitutional Bench referred in the judgments in **Mohan Lal Magan Lal thacker v. State of Gujarat** (referred supra) with the approval of principle in **S. Kuppaswami v. The King** (referred supra), if applied to the orders passed under Section 91 of the Act by Joint Collector in review petition, either dismissing or allowing the applications, it is clear that, when the order under challenge in a revision if terminates or culminates the entire proceedings, it is a final order. If not, it is only an interlocutory order and remedy available to such person aggrieved is elsewhere.

The gist of the law laid down in the above judgments is only that if the order under challenge in the revision would terminate or culminates the entire proceedings, which can be described as final, otherwise it is interlocutory order. But in the facts of the present case, the dispute was remanded to R.D.O after setting aside the original order passed by the R.D.O while reviewing his own order on account of error apparent on the face of the record. Therefore, the order under challenge is not final order, which would not terminate or culminate the entire proceedings as the dispute was remanded to the R.D.O. for fresh consideration for passing an

order in accordance with law by the R.D.O.

Applying the principles laid down in the above judgments, I am of the view that the order under challenge, if upheld, it would not terminate the proceedings and my view is fortified by the judgment of this Court (referred supra) under the same Act and Sri N.Vasudeva Reddy, learned counsel for the petitioners, also appeared in "**Kurva Mallamma v. Kupireddy Sasthri**" (referred supra) in one of the cases, and was unsuccessful before this Court.

In **Yerraboth Sathiah v. Edla Chaliah** (referred supra), preliminary objection with regard to maintainability of the revision under Section 91 of the Act was raised and the learned single Judge of this Court dismissed the petition on the ground that the order of remand was not a final order, because, no revision lies and an order of remand is on the face of it, not a final order, because it did not decide the rights of the parties.

The same view was expressed by the learned single Judge of this Court in **Mothukuri Ranga Rao v. Royyala Laxminarayan** (referred supra), wherein, it was held that there is a clear distinction between Rules 4 & 9 of Order IX C.P.C.

In view of the principles laid down in the three judgments referred supra, I have no hesitation to hold that the revision against the impugned order is not maintainable under Section 91 of the Act.

The peculiar facts in the present case is that, a review petition was entertained by the Joint Collector and passed the

impugned order, remanding the case to the primary authority i.e. Revenue Divisional Officer. Therefore, the order under challenge remanding the matter to the Revenue Divisional Officer, directing him to decide the dispute afresh does not amount to deciding the rights of the parties and it would not terminate or culminate the entire proceedings and still orders are required to be passed by the Revenue Divisional Officer. Therefore, such order cannot be described as final order for the purpose of entertaining revision under Section 91 of the Act.

No doubt, when a review is filed, the parties who are aggrieved by the order in review are not remediless. When the Civil Procedure Code is applicable, the parties can redress their remedies in an appropriate forum or Court under different provisions of law. But, so far as, the maintainability of the revision under Section 91 of the Act is concerned, it is not amenable to revisional jurisdiction of this Court, in view of the long line of perspective judgments referred supra. Therefore, I hold that revision under Section 91 of the Act is not maintainable. Accordingly, point Nos.1 & 2 are answered against the petitioners and in favour of the respondents.

P O I N T N O . 3 :

Though, the learned counsel for both the petitioners and respondents raised several contentions with regard to maintainability of review, invoking the provisions of Civil Procedure Code, the order under challenge is not revisable under Section 91

of the Act, as per discussion in point Nos. 1 & 2. In such case, deciding the maintainability of the review before the Joint Collector, invoking provisions of Civil Procedure Code on any ground, including ground of failure to implead the legal heirs of B. Somaiah and A. Mareppa is unnecessary. The remedy available to these petitioners is elsewhere, but not under Section 91 of the Act. Therefore, though long line of judgments is placed on record before this Court by both the counsel about maintainability of the review and non-maintainability of the review, I need not record any finding on this issue. Hence, no finding is recorded by me, in view of the discussion in point Nos. 1 & 2.

In the result, civil revision petition is dismissed, on the sole ground that the order in this revision is not a final order, but an interlocutory order, against which no revision lies under Section 91 of the Act.

Consequently, miscellaneous applications pending if any, shall stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date: 30.11.2018

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