HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.2416 OF 2019

O R D E R:

1 The prayer of the petitioners in this case reads as under:

> "For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue writ or direction more particularly one in the nature of writ of mandamus declaring the inaction of the 3rd respondent in Case ROR Appeal No.A3/11313/2015 under Section 5-B of ROR Act against 6th respondent is against the principles of law and barred by limitation and against the Telangana ROR Act and to pass such other order(s) as may be deemed fit just and proper in the circumstances of the case."

2 It is an admitted fact that the petitioners filed an application seeking to be impleaded as respondents in the pending appeal bearing ROR Appeal No.A3/11313/2015 on the file of the Revenue Divisional Officer, Khammam.

3 Sri M Venkata Narasimha Reddy, learned counsel for the petitioners, does not dispute the fact that the Revenue Divisional Officer, Khamam, is the designated statutory authority to entertain an appeal under Section 5-B of the Telangana Rights in Land and Pattadar Pass Books Act, 1971 (for brevity 'the Act of 1971'). It is however his case that the Revenue Divisional Officer ought not to have entertained the subject appeal on the ground of unreasonable delay. This aspect of the matter would be considered by the appellate authority if a ground in that regard is raised before him. As the petitioners have already filed an implead petition but are yet to get impleaded in the pending appeal, it is for them to pursue the same and raise this issue also before the appellate authority. It is not for this court to interdict a statutory appellate authority from entertaining an appeal that would lie to it under the provisions of the Statute. Each case would have to be dealt with on its own merits and it is for the appellate authority to consider the case independently on merits and in accordance with law. The prayer of the petitioners to declare the action of the Revenue Divisional Officer, Khammam, in entertaining the appeal under Section 5-B of the Act of 1971 is therefore misconceived. In consequence, the Writ Petition is dismissed. This order shall however

not preclude the petitioners from raising the ground of limitation before the appellate authority in the event they are impleaded in the pending appeal.

4 Pending Miscellaneous Petitions, if any, shall also stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

8th February, 2019
Kvsn