APHC010044042023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3332]
(Special Original Jurisdiction)

THURSDAY, THE 8th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 2164/2023

Between:

Mooli Ramachandra Reddy and Others **...PETITIONER(S)**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner(S):

1. O M R LAW FIRM

Counsel for the Respondent(S):

1. GP FOR REVENUE
2. O UDAYA KUMAR
3. KOTHAPALLI KODANDAPANI

The Court made the following order:

The present writ petition is filed challenging the order passed by the respondent no.3-RDO vide D.Dis.D2(B)/1573/2020 dated 09.01.2023.

2. Heard M/s OMR Law Firm, learned counsel for the petitioners, Sri Venkata Satya Narayana, learned Assistant Government Pleader for Revenue and Sri Kothapalli Kondandapani, learned counsel for R10. No representation for Sri O.Udaya Kumar, learned counsel for R5 to R8.

3. Learned counsel for the petitioners, while reiterating the contents of the affidavit filed in support of the writ petition, contended that, the subject properties are the Joint Family properties and the petitioners names were also mutated in the revenue records more than 5 decades ago. He further submitted that, an appeal was filed by unofficial respondents under section 5(5) of the A.P.Rights in Land and Pattadar Passbooks Act, 1971 before the RDO requesting to mutate their names in the revenue records and the same was allowed by the RDO through impugned order which is unsustainable and contrary to the Act, 1971. He further submits that, Section 5 of the Act, 1971 states that before carrying out any amendment in the record of rights, a notice shall be issued in writing to all the persons whose names are entered in the record of rights and who are interested in or affected by the amendment and to any other persons whom he has reason to believe to be interested therein or affected thereby to show cause within the period specified therein as to why the amendment should not be carried out. He further submitted that, despite the said provision, the RDO has issued the impugned proceedings without having any jurisdiction and the unofficial respondents are trying to alienate the subject properties. As such filed the present writ petition and prayed to pass appropriate orders in that regard.

4. On the other hand, learned Assistant Government Pleader for Revenue submitted that, the authorities would consider the petitioners case in accordance with law.

5. Sri Kothapalli Kondandapani, learned counsel for R10 upon counter contended that, the 10th respondent is the absolute owner of the subject property having purchased the same under registered sale deed dated 28.11.2020 and eversince he has been in the possession and enjoyment of the same. He further submitted that, the petitioners have no right or title over the subject property and there is title dispute between the petitioner and the respondents which has to be adjudicated before the competent civil court only. Accordingly prayed to dismiss the writ petition.

6. Perused the record and considered the submissions of both the learned counsel.

7. A perusal of the RDO order vide D.Dis.D2(B)/1573/2020 dated 09.01.2023 would indicate that the RDO has observed that no material was submitted evidencing that the subject property is a joint family property and that it fell to the petitioners exclusive share. It was mentioned that, the mutations carried out in favour of the petitioners is neither as per due procedure nor supported by any valid legal documents. Further, it states that petitioners have not produced any relevant documentary evidence in support of their claim with regard to possession and directed to delete the petitioners name in the 1B adangals with regard to subject properties.

8. Admittedly, there are no proceedings under Section 5(3) of the A.P.Rights in Land and Pattadar Passbooks Act, 1971. The parties can prefer

an appeal only when there is an order under Section 5(3) of the Act, 1971. In ***T.Rajeswari v. Joint Collector, SPSR Nellore District***[1], this court has held as follows:

> *"As per the scheme of the Act, it is only the order, which was passed under Section 5(3) of the Act is appealable under Section 5(5) of the Act. In the absence of any order having been passed in the present case, there could not have been any appeal. The Revenue Divisional Officer, who is the appellate authority, while passing the order pursuant to the order of this Court, also did not verify as to what are the pending cases, and likewise the Joint Collector also did not make any efforts to set out the details. In other words, in the present case, there is no primary order and the appellate as well as the revisional orders are also bereft of any details. In such circumstances, both the orders i.e., appellate as well as revisional order cannot be sustained and required to be set aside and accordingly set aside."*

9. As per the above observations, it is evident that in the absence of any order having been passed under Section 5(3), there could not have been any appeal under section 5(5) of the Act, 1971.

10. In view of the above, the impugned order passed by the RDO is not sustainable and without jurisdiction, therefore it is liable to be set aside. Accordingly the writ petition is disposed of and the impugned proceedings are hereby set aside. However, the aggrieved parties are not precluded from approaching the Joint Collector as per Section 9 of the Act, 1971. No costs.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

BRS

[1] 2015(6)ALT 339