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APHC010474072023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3331]**
(Special Original Jurisdiction)

MONDAY, THE 5th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 24625/2023

Between:

1. S MOHAMMAD ASHRAF, S/O KHAJAVALI, AGED ABOUT 34 YEARS, OCC. BUSINESS, KALICHERLA, PEDDAMADNYAM MANDAL, CHITTOOR DISTRICT (ANNAMAYYA)
2. S. MOHAMMAD ISHAQ, S/O KHAJAVALI, AGED ABOUT 30 YEARS(NRI),NATURE OF PERMANENT, KALICHERLA, PEDDAMADNYAM MANDAL, CHITTOOR DISTRICT (ANNAMAYYA)

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP., BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT, SECRETARIAT, VELGAPUDI, GUNTUR DISTRICT
2. THE STATE OF ANDHRA PRADESH, REP., BY ITS PRINCIPAL SECRETARY, STAMPS AND , REGISTRATION DEPARTMENT, SECRETARIAT, VELGAPUDI, GUNTUR DISTRICT
3. THE DISTRICT COLLECTOR, ANNAMAYYA DISTRICT (CHITTOOR DISTRICT)
4. THE TAHSILDAR, PEDDAMADNYAM MANDAL, ANNAMAYYA DISTRICT
5. THE REVENUE DIVISIONAL OFFICCER, , PEDDAMADNYAM

MANDAL, KALICHERLA, MADANAPALLI, ANNAMAYYA DISTRICT

6. THE REGISTRAR, STAMPS AND REGISTRATION DEPARTMENT, KALICHERLA, PEDDAMADNYAM MANDAL, ANNAMAYYA DISTRICT (CHITTOOR DISTRICT)

7. THE SUBREGISTRAR, STAMPS AND REGISTRATION DEPARTMENT, KALICHERLA, PEDDAMADNYAM MANDAL, ANNAMAYYA DISTRICT (CHITTOOR DISTRICT)

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in including the petitioners land in Sy.No.738/4 extent of Ac.2.25 cents in prohibited List vide DR MEMO No.G1/869/2015 dated 18.07.2016 and also issuing the impugned proceedings by the 3rd respondent vide R.Dis.E3/2557/2023 dated 31.08.2023, which is illegal, arbitrary and in violation of articles 14 and 21 of Constitution of India and set-aside the above said impugned proceedings and consequently to direct the respondents to delete the petitioners land in Sy.No.738/4 extent of Ac.2.25 cents from the Prohibition List by suspending the impugned proceedings of the 3rd respondent vide R.Dis.E3/2557/2023 dated 31.08.2023 and to pass such

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to delete the petitioners land in Sy.No.738/4 extent of Ac.2.25 cents from the Prohibition List, pending disposal of the above writ petition and pass such

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the impugned proceedings passed by the 3rd respondent vide R.Dis.E3/2557/2023 dated 31.08.2023, pending disposal of the above writ petition and pass such

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents No.3 to 5 subject property and further not to restrain the not to interfere in the petitioners to enter into their land situated in Sy.No.738/4 extent Ac. 2.25 cents till the disposal of the above Writ Petition in the Interest of justice and pass

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave to the petitioners herein/ Respondent No.7 in the W.P.No.24625 of 2023 to file counter affidavit in the above writ petition and pass

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim order dated 23.07.2024 passed in WP.No.24625 of 2023 and pass

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant special leave to the petitioner to file a reply (rejoinder) affidavit to the counter affidavit filed by the 3rd respondent in the above writ petition No. 24625 of 2023 in the interest of justice and to pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to extend the interim orders granted earlier by this Hon'ble Court subsequently extended on 12.11.2024 in the above W.P. No. 24625 of 2023 till further period and to pass

Counsel for the Petitioner(S):

1. SHAIK KARIMULLA

Counsel for the Respondent(S):

1. GP FOR REVENUE

2. GP FOR REGISTRATION AND STAMPS (AP)

The Court made the following:

ORDER

Heard Sri Shaik Karimulla, learned counsel for the petitioner and Sri Divya Theja, learned Assistant Government Pleader for Revenue for the respondents.

2. Assailing the proceedings of the 3rd respondent vide R.Dis.E3/2557/2023, dated 31.08.2023 (Ex.P1), the above writ petition was filed.

3. a) The 4th respondent-Tahsildar, issued DKT patta (Ex.P5), in respect of Ac.2.25 cents in S.No.738-4 and Ac.2.84 cents in S.No.2599-2 of Kalicherla village, Peddamandyam Mandal, Chittoor District, in the year 1986 to the petitioners' father Syed Khajavali. In the affidavit, it was pleaded that even before grant of DKT Patta, the petitioners' father occupied the land and made it fit for cultivation. Thereafter, the Tahsildar updated records of rights in the name of Khajavali and issued pattadar pass book (Ex.P6) and 1-B adangal (Ex.P7). The petitioners' father died testate by executing a registered Will dated 02.05.2017. On the death of their father, the petitioners succeeded to the property and have been cultivating the land. The petitioners also filed suit O.S.No.107 of 2018 on the file of Junior Civil Judge, Thamballapalli, seeking perpetual injunction, against some private parties including the Tahsildar and the District Collector. The said suit was decreed on 24.12.2020. Copy of the judgment is filed as Ex.P9.

b) The petitioners requested to mutate their names in respect of Ac.2.25 cents in S.No.738/4. The 4th respondent-Tahsildar informed the petitioners that the property was kept in the prohibited properties list on 18.07.2016. The petitioners filed W.P.No.15155 of 2023 to direct the authorities to delete the property from the list of prohibited properties. The writ petition was disposed

of on 27.06.2023, giving liberty to the petitioners to make an appropriate online application with relevant documents, and directed the District Collector to take necessary action in accordance with law, within a period of 3 months. Ex.P3 is a copy of the order in W.P.No.15155 of 2023.

c) Thereafter, the 3rd respondent issued notice, and the petitioners submitted oral and written arguments. The 3rd respondent, by placing reliance upon the report of the Tahsildar, Peddamandyam, concluded that the land which was assigned to the petitioners' father is not agricultural land, and it is 'Banda' and it was assigned after 18.06.1984 and hence, G.O.Ms.No.1142, Revenue Department dated 18.06.1954, would apply and thus, rejected the claim of the petitioners. The 3rd respondent further directed the Tahsildar to take necessary action to submit proposals for cancellation of DKT patta on the ground of mistake of fact.

4. The writ petition was listed on 20.09.2023 and adjourned at the request of the learned Government Pleader for Revenue to get instructions. On 23.07.2024, the proceedings impugned were suspended, and the same is being extended from time to time.

5. A counter affidavit was filed by the 3rd respondent supporting the proceedings impugned. It was contended, *inter alia*, that S.No.738 of Kalicherla village, Peddamandyam Mandal, admeasuring an extent of Ac.7.79 cents, is classified as Gayalu or Un-assessed Waste, as per Resettlement Register. The said land is fully covered by a sheet of rock and unfit for cultivation. The villagers have been using the land as a threshing floor to dry their produce. The land in S.No.738 was subdivided as S.No.738/1 with an extent of Ac.1.18 cents; S.No.738/2 with an extent of Ac.1.39 cents; S.No.738/3 with an extent of Ac.1.45 cents and S.No.738/4 with an extent of Ac.3.77 cents, vide Proc.No.165/8A of 39, dated 09.06.1930. A Zilla Parishad road passes through S.No.738/3 in an extent of Ac.1.45 cents, leading from Gurramkonda to Galiveedu and S.Nos.738/1, 2 & 4 are being used as Kallam

Banda (thrashing floor). The father of the petitioners misrepresented the facts and obtained DKT patta for an extent of Ac.2.25 cents in collusion with the then Revenue officials. The original assignee was having Ac.4.73 cents of land in S.No.2599/2, S.No.496/D, 497, 502, prior to the grant. Assignment of the threshing floor is prohibited vide BSO.15, Para-4(1) read with Para-4 (x) and (xiii) of G.O.Ms.No.1142, dated 18.06.1954. The official respondents were not parties to suit O.S.No.107 of 2018. There are no tracks of cultivation over the subject property. The respondents examined the case in the context of BSO.15(18)(1) read with G.O.Ms.No.912, dated 02.08.1985 and eventually prayed to dismiss the writ petition.

6. A separate counter affidavit was filed by the 7th respondent. It was contended, *inter alia*, that a list of survey numbers has been published vide Letter in Roc.No.F8/4495/2013, dated 26.06.2019 of the Revenue Department under Section 22-A(1)(b) of the Registration Act, 1908. There is a total prohibition on the registration of documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease in respect of immovable property owned by the religious institutions executed by persons other than those statutorily empowered to do so.

7. A rejoinder was filed on behalf of the petitioners, reiterating the averments in the writ affidavit. In the rejoinder, it was specifically denied that the petitioners' father owned other lands, apart from the land assigned.

8. Learned counsel for the petitioner as well as learned Assistant Government Pleader for Revenue reiterated their contentions as per the averments in the writ affidavit and counter affidavits respectively.

9. Now, the point for consideration is:

Whether the proceedings vide R.Dis.E3/2557/2023, dated 31.08.2023 issued by the 3rd respondent, are legally sustainable?

10. As seen from the material available on record, there is no dispute regarding assignment of land, in favour of petitioners' father, vide Ex.P5 and also updating of Records of Rights vide Exs.P6 & P7. The petitioners' father, in fact, executed a registered Will vide Ex.P8. The assignment was made in the year 1986. During the lifetime of the original assignee, the authorities never pointed out that the land was not fit for cultivation. After the death of the original assignee, when his sons made an application to mutate their names and to delete the property from the list of prohibited properties under Section 22-A of the Registration Act, 1908, the 3rd respondent passed the impugned order, acting upon the report submitted by the Tahsildar.

11. It is pertinent to mention here that the report of the Tahsildar was not made available to the writ petitioners. When the 3rd respondent placed much reliance upon the report of the Tahsildar, he should have furnished the copy of the Tahsildar's report to the petitioners, enabling them to submit their explanation/objection. The approach of the 3rd respondent in not furnishing the copy of the report to the petitioners, in the considered opinion of this Court, amounts to a violation of principles of natural justice.

12. In fact, the petitioners demonstrated that a mosque existed in a part of the land; part of the land is dry land, and in part of the land a road was laid, and the remaining land, which was assigned, the petitioners have been using for nursery purposes. The 3rd respondent gave much prominence to the report of the Tahsildar, wherein the Tahsildar reported that petitioners poured soil on the upper surface of Banda.

13. The proceedings impugned does not reflect about the petitioners' father owning other land. However, for the first time, it was mentioned in the counter affidavit, and in fact, the same was denied by the petitioners in the reply filed by them. The authority, by filing a counter affidavit, cannot supplement the pleadings, which are not part of the findings in Ex.P2, and the same is

impermissible. In **Mohinder Singh Gill Vs. Chief Election Commr.**[1], the Hon'ble Apex Court observed thus:

> "8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji [**Commr. of Police, Bombay v. Gordhandas Bhanji**, 1951 SCC 1088: AIR 1952 SC 16] :
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> > "Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."
>
> Orders are not like old wine becoming better as they grow older."

14. It is also noteworthy that for more than four decades, there was no objection from any quarter that neither the petitioners nor their father failed to cultivate the land pursuant to Ex.P5 assignment. Without providing a reasonable opportunity and without even considering the written submissions of the petitioners, the 3rd respondent passed the order impugned in the writ petition.

15. It is pertinent to note that the Hon'ble Apex Court in **S.L. Kapoor Vs. Jagmohan** [2] categorically held that those orders which involve civil

[1] (1978) 1 SCC 405 : 1977 SCC OnLine SC 323
[2] (1980) 4 SCC 379

consequences to a person must conform to the principles of natural justice. The relevant paragraphs are reproduced as under:

> "7. The old distinction between a judicial act and an administrative act has withered away and we have been liberated from the psittacine incantation of `administrative action'. Now, from the time of the decision of this Court in **State of Orissa v. Dr. (Miss) Binapani Devi & Ors**. "even an administrative order which involves civil consequences.... must be made consistently with the rules of natural justice". What are civil consequences? The question was posed and answered by this Court in **Mohinder Singh Gill & Anr. v. The Chief Election Commissioner, New Delhi & Ors**. Krishna Iyer J., speaking for the Constitution Bench said (at p. 308-309):
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> > "But what is a civil consequence, let us ask ourselves, by passing verbal booby-traps? `Civil consequence' undoubtedly cover infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages. In its comprehensive connotation, everything that affects a citizen in his civil life inflicts a civil consequence".
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> The learned Judge then proceeded to quote from Black's Legal Dictionary and to consider the interest of a candidate at a Parliamentary election. He finally said:
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> > "The appellant has a right to have the election conducted not according to humour or hubris but according to law and justice. And so natural justice cannot be stumped out on this score. In the region of public law locus standi and person aggrieved, right and interest have a broader import".

16. Therefore, the order impugned suffers from violation of principles of natural justice, including failure to provide a reasonable opportunity and without considering the written arguments submitted by the petitioners.

17. Accordingly, the proceedings of the 3rd respondent *vide* R.Dis.E3/2557/2023, dated 31.08.2023 (Ex.P1), are set aside.

18. The Government issued G.O.Ms.No.444, Revenue (Registration-I) Department, dated 22.07.2026, and as per the said G.O., the competent authority to deal with the issue is the 5th respondent, Revenue Divisional Officer. Hence, the matter is remitted to the 5th respondent. The 5th respondent shall consider the matter afresh by providing an opportunity of hearing to the petitioners and also by furnishing all the relevant material on which reliance is placed by the authority to the petitioners and pass appropriate orders, strictly as per law. The 5th respondent shall complete the entire exercise within a period of three months from the date of receipt of a copy of this order.

19. Accordingly, the Writ Petition is Allowed. No order as to costs.

As a sequel, all the pending miscellaneous applications shall stand closed.

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JUSTICE SUBBA REDDY SATTI

PVD

Whether the order is :

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No