

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No. 1928 of 2010

Between:

B.Veeresh and another

... Petitioners

And

The Tahsildar and others

... Respondents

JUDGMENT PRONOUNCED ON: 16.08.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : Yes

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

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> Head Note:

! Counsel for the Petitioners

: Mr P.Prakash Reddy
Sr. Designated Advocate

^ Standing Counsel for Respondent No.1: G.P.for Revenue

^ Counsel for respondent No.2 : Mr N.Naveen Kumar

? Cases Referred:

1. (2010) 13 SCC 427
2. (2010) 9 SCC 496
3. (2003) 3 APLJ 452
4. (1998) SCC 81

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P.No. 1928 of 2010

ORDER:

Heard the Learned Senior Counsel Mr. B.Prakash Reddy appearing on behalf of the Petitioner, learned Government Pleader for Revenue appearing for respondent No.1, and Sri K.Venkata Narsimha Reddy, learned standing counsel appearing on behalf of the Respondent No.1.

2. This Writ Petition is filed praying to issue a Writ of certiorari and call for records relating to proceedings in File No. B/3088/09 dated 18.01.2010 confirming the orders passed in proceedings in File No. B/4140/2005 dated 30.01.2008 issued by respondent No. 1 and quash the same.

3. The case of the Petitioner, in brief, is as follows:

a) The petitioners' father late Buddolu Gopal was the owner and pattadar of land admeasuring Ac.25-18 gts. in S.No. 775 and 776 of Nednoor Village, Kandukur Mandal, R.R.District having acquired the same by way of family settlement among his brothers and pattadar passbook and

title deed books were issued by the 1st Respondent with respect to the same.

b) The petitioners' father was in service in railways and thus, taking advantage of the absence of the petitioners' father, the 2nd Respondent created a private sale deed in respect of subject land alleged to have been executed by B. Veeraiah the father of petitioner's father on 27.04.1968 and filed an application for regularization of the private sale deed on white paper before the 1st Respondent. However, in the said application the 2nd Respondent made dead person (B. Veeraiah) as party.

c) The 2nd Respondent without making the legal heirs of the said Veeraiah as party made the application for regularization of private sale deed said to have been executed by B. Veeraiah on 27-4-1968.

d) Subsequently, the 1st Respondent without issuing any notice to the owners and pattadars whose names are recorded in the pattadar column of pahani patrak which were filed by 2nd Respondent along with the petition in Form No. 10

of rules has issued the proceedings dated 30.01.2008 regularizing the private sale deed dated 27.04.1968.

e) Aggrieved by the above-mentioned proceedings of the 1st Respondent, the petitioners preferred an appeal before the Special Grade Deputy Collector Revenue Divisional Officer, R.R. District East and also filed petition for suspension of proceedings dated 30.01.2008 in file No. B4110/2005. Thereafter, the R.D.O. vide orders in File A2/1292/2008 dated 01.08.2009 allowed the appeal and remanded the matter to 1st Respondent for fresh disposal in accordance with law.

f) Subsequent to the remand, the 1st Respondent issued a notice to the petitioner and in response to the same, a counter was filed by the petitioner along with all the documents and the 2nd Respondent herein also appeared on the date of hearing and requested time for filing documents.

g) However, the 2nd Respondent did not file any document and the case was posted on 19.12.2009. On the said date the petitioner appeared and on behalf of 2nd Respondent, no one appeared. Thus, the 1st Respondent without conducting any enquiry has simply stated orders reserved. However, the 1st

Respondent confirmed the earlier order dated 30.01.2008 passed by the then Tahsildar.

h) It is to be noted that, the remand order directed the 1st Respondent to conduct fresh enquiry and pass fresh orders. But the 1st Respondent failed to follow the remand order. The order dated 30.01.2008 in B/4110/2005 was set aside by the appellate authority.

i) The 1st Respondent admittedly has no jurisdiction to validate a void document and as per Sec. 47 of A.P. (I.A.) Tenancy and Agriculture Land Act 1950 for all sale transactions earlier to 1968, the permission under Sec 47 of the Act was mandatory. In the instant case neither permission was obtained under Sec 47 nor Validation certificate under Sec 50 (B) was obtained by 2nd Respondent.

j) The 2nd Respondent got regularized the alleged private sale deed dated 27.04.1968 on 30.1.2008 after the death of the petitioners' father and the same clearly proves that the sale deed dated 27.04.1968 was after thought and created. Alongside, the observation of 1st Respondent that the pattadar or his legal heirs name never appeared in pahanies

is absolutely false and till today in all the pahanies in the pattadar column, the legal heirs of late B. Veeraiah are recorded.

k) Thus, the order dated 18.01.2010 passed by the 1st Respondent in file NO. B/3088/09 is unsustainable and without jurisdiction and is highly arbitrary and illegal. Hence this Writ Petition.

4. The counter affidavit filed by Respondent No. 2, is as follows:

a) The contention that the petitioners' father was issued pattadar passbook in respect of above stated lands are all absolutely false and incorrect having regard to the fact that the original pattadar Boddolu Veeraiah sold the same to the unofficial Respondent herein through unregistered Sale Deed dated 27.04.1968.

b) In pursuant to the unregistered sale deed dated 27.04.1968, the original pattadar who sold the subject land, delivered the physical possession of the subject

lands and accordingly the names of the unofficial Respondent along with his two brothers Sargari Ranga Reddy and Sargari Bal Reddy were recorded as occupants and the same is evident from the pahanies for the years from 1969-70 to 2006-2007.

c) As the unregistered sale deed executed by Buddolu Veeraiah satisfied all the legal requirements as contained under Section 5-A of RoR Act and Rule 22 of the RoR Rules upon sale of subject land and delivery of its possession and receipt of entire sale consideration, the 3rd Respondent rightly validated the same under the provisions of Sec. 5-A of the Act and there is no illegality in the said proceedings. Since the Petitioners contended that the said order is vitiated by principles of natural justice as no notice is issued to the legal heirs of the deceased Vendor at the time of validation, the Appellate authority remanded the matter back to the 1st Respondent herein for de-novo enquiry.

d) In pursuance to the same, the 1st Respondent issued notices to both the parties and caused enquiry into the matter and once again issued the proceedings under Sec. 5-A of the

Act for validation of unregistered sale deed and in view of the same, the impugned order of the 1st Respondent is perfectly legal and the same does not warrant interference under Art. 226 of the Constitution of India having regard to the disputed questions raised by the petitioners.

e) The sale deed in question was validated by the Tahsildar after repeal of Section 47 of the Act. As a matter of fact, Section 5-A of the ROR Act was enacted with the sole object to regularize the unregistered sales made prior to 31.12.2000 and by virtue of the same, validating the said sales during the subsistence of validity of Sec. 5-A of the Act, 1971 is not hit by Sec.47 of the Act. The 2nd Respondent produced the original document before the 1st Respondent and Xerox copy of the same is filed and after satisfying the same, thus, the 1st Respondent validated the said document.

f) The revenue records clearly show the continuous possession of these Respondents from 1969-70 to 2006-2007. The petitioners having knowledge of the same, never challenged the revenue entries recording the names of these respondents as occupants of the subject lands. Further, the

petitioners herein started making false claims over the subject lands only after death of the father of the Petitioners in the year 2004 and prior to it, the three sons of B. Veeraiah namely Balraj, Venkataiah and Gopal never made any claim disputing the sale deed executed by B. Veeraiah in the year 1968. Also, the entries in the Revenue Record attained its finality as they were never challenged during the life time of B. Veeraiah or by his three sons.

g) Even though the notices were served to all the legal heirs of B. Veeraiah, only the petitioners contested the matter before the 1st Respondent. Therefore, there is no illegality in the impugned order passed by the 1st Respondent. Hence, the Writ Petition is without merits and is liable to be dismissed.

5. PERUSED THE RECORD

a) The Original Impugned Order vide No.B/4110/05, dated 30.01.2008 of the Mandal Revenue Officer, Kandukur Mandal, Ranga Reddy District East Division, Ranga Reddy District, reads as under :

Whereas S.Yadi Reddy, S/o Malla Reddy, Nednoor Village, applied for validation of sale/Alienation under Section 5-A of the Act. After completion of a due enquiry as prescribed under

the law, Sri Sagari Yadi Reddy S/o S.Malla Reddy is found to be the purchaser of the land by an unregistered document in Sy.No.775,776 to an extent of Ac.8.22gts and Ac.16.36 gts from Sri Buddolu Veeraiah S/o Venkaiah described in detail in the schedule and sketch attached, and where as under the provisions of Sub-Section (4) of Section 5-A of the A.P. (Rights in Land) and Pattadar Pass Books Act, 1971, the said a license/transferee was required to deposit an amount Rs.3,000/- (Three thousands only) towards registration fees and stamp duty in consultation with sub-Registrar's Office and he has deposited an amount Rs.3,000/- (Three thousands only) equal to the registration fee and stamp duty that would have been payable had the alienation/transfer been effected by a Registered document in accordance with provisions of the Indian Registration Act, 1908 towards alienation/transfer. Therefore by virtue of the power vested in me under Section 5-A of the A.P. (Rights in Land) and Pattadar Pass Book Act, 1971, I order that the above alienation/transfer described below as valid.

Since the Sketch is not available the details of the land and rough sketch is enclosed herewith.

- b) The last 2 paras of the order dated 01.08.2009 vide Proceedings No.A2/1292/2008 in an Appeal filed

by the Petitioners under Section 5(5) of the A.P. Record of Right in Land and Pattedar Passbook Act, 1971, by the Petitioner herein against the order of the Tahsildar, Kandukur in File No.B/4110/2005, dated 30.01.2008 in respect of land bearing Sy.Nos.775 & 776, to an extent of Ac.25.18 gts., situated at Nednoor Village, Kandukur Mandal, Ranga Reddy District, is extracted hereunder :

"Perused the record and documents available on file. The case of the appellant is that one Boddulu Veeraiah was the pattedar of land in Sy.No. 775 (Ac.8-22 gts.) & 776 (Ac.16-36 gts.) situated at Nednur village, Kandukur Mandal and his name was recorded as pattedar from the year 1950 onwards and from the year 1983-84 onwards the names of Boddulu Bala Rajaah, Venkaiah and Gopal were recorded over the subject land. Subsequently, the Thasildar, Kandukur has passed orders under appeal mutating the name of the respondent No.1 in the revenue records over the subject land without issuing any notice to the persons recorded in the pahanies.

The contention of the respondent No.1 is that he has purchased the land in S.No. 775 & 776 totally admeasuring Ac 25-18 gts, situated at Nednur village, from the original pattedar Sri Boddula Veeraiah under un-registered sale deed dated 27-5- 1968 for a valid consideration of Rs. 25,000/- and from the date of

purchase he is in the physical possession of the subject land and his name was incorporated in the revenue records from 1977 onwards as an occupant. The Tahsildar, Kandukur has validated his un-registered sale transaction and incorporated his name in the revenue records vide B/4110/05, dated 30-1-2008 and the pattadar pass book/title deeds were also issued this effect.

As seen from the averments of the parties and documents produced by them, it is an admitted fact that Boddula Veeraiah is the original pattadar of the land in Sy No. 775 (Ac.8-22 gts.) & 776 (Ac.16-36 gts.) situated at Nednur village, Kandukur Mandal. It is also borne out by record that the name of Sargari Yadi Reddy (the Respondent) was recorded as occupant over the subject land. On perusal of the lower court record in file No. B/4110/05, the respondent has filed a petition before the Mandal Revenue Officer in the year 2005 stating that he has purchased the subject land from original pattadar on 27-4-1968 and requested to the Tahsildar to regularize his unregistered sale transaction in the revenue records. The Tahsildar has passed orders under appeal mutating the name of respondent No.1 in the revenue records in respect of subject lands. **As seen from the lower court file, the Tahsildar has not served any notice among the persons recorded in the revenue records and simply issued a proforma order in 13(B) & (C) on 30-01-2008.**

without giving narrative orders showing the details of the proceedings initiated on the Xerox copy of the alleged un-registered document dated 27-4-1968. The original document is not verified by Tahsildar and the original document is also not available in the file. The witnesses of the document have not been examined by the Tahsildar as contemplated under the provisions made under section 5(A) of the ROR Act and under Rule 22 of the ROR Rules. It is necessary to serve the notice on persons affected before changing any entries in the revenue records. The lower court failed to serve the notices as required under rules to the respective persons and unilaterally passed orders without verifying alleged original document of the respondent. As such, the impugned orders of the lower court under appeal are devoid of merits and suffer from procedural lapses and is liable to be set-aside.

In view of the above narrated facts and circumstances of the case, the orders of the Tahsildar, Kandukur passed in file No.B/4110/05, dated 30-1-2008 are hereby set- aside and the operation of the pattedar book and litle deed of the respondent in respect of land in Sy.No. 775 (Ac.8-22 gts.) & 776 (Ac.16-36 gts.) situated at Nednur village, Kandukur Mandal is cancelled and the matter is remanded to the Tahsildar, Kandukur with a direction to restore the original entries in the

pahanis and to take up the matter afresh by conducting with denova enquiry duly following procedure as required under rules and pass appropriate orders accordingly.

c) The conclusion arrived at in the proceedings of the Tahsildar, Kandukur Mandal, Ranga Reddy District, dated 18.01.2010 vide Proceedings No.B/3088/09, reads as under :

"The case is taken on record and issued notices to all concerned. In response to the notice dt.29-08-2008 the petitioners and respondents have represented through their counsel's Sri N. Vasudeva Rao, Advocate for Buddolu Veeresh and Sri V.Ram Reddy Advocate for Sargari Yadi Reddy filed Vakalath. The matter was called on. subsequent from time to time and finally called on 19-12-2009 and the appellants have filed written arguments and reserved the matter for orders.

In pursuance of observation made by Spl.Grade Dy.Collector & Revenue Divisional Officer / appellate authority examined and verified with records which reveals that Sri Sargari Yadi Reddy is in possession of subject land by purchasing the same from pattadar late Sri Buddolu Veeraiah since more that 30 years. The pattear or his legal heirs never appeared at any point of time in

pahanis over the land during above period. There is no case of alleged sons of pattadar as their father sold out the land to the applicant during the year 1968 itself by taking consideration.

The request of impleading petitioners Srikanth Reddy and others claiming rights over the subject land is of civil nature and this court has no jurisdiction. Hence they are advised to approach competent forum of law.

On verification pahanis for the year 1977-1978 to 2006-2007 the entries are detailed below:

S.No.	Extent	Name of the Pattedar	Khatha No.	Name of the occupant
775/A	2.34	Buddolu Bala Rajaiah	245	Sargari Yadi Reddy Sargari Ranga Reddy Sargari Bal Reddy
775/AA	2.34	Buddolu Venkiah	246	Sargari Yadi Reddy Sargari Ranga Reddy Sargari Bal Reddy
775/E	2.34	Buddolu Gopal	247	Sargari Yadi Reddy Sargari Ranga Reddy Sargari Bal Reddy
776/A	5.25	Buddolu Bala Rajaiah	245	Sargari Yadi Reddy Sargari Ranga Reddy Sargari Bal Reddy
776/AA	5.25	Buddolu Venkaiah	246	Sargari Yadi Reddy Sargari Ranga Reddy Sargari Bal Reddy
776/E	5.26	Buddolu Gopal	247	Sargari Yadi Reddy Sargari Ranga Reddy Sargari Bal Reddy

In view of the above facts and evidences put forth by the applicant Sri Sargari Yadi Reddy the request for grant of mutation by validating the unregistered document is found considerable. Therefore, the

proceedings issued vide file No. B/4110/2005, dated 30.01.2008 is confirmed."

d. Para 6 of the counter affidavit filed by the Respondent No.2 reads as under :

"6. I submit that in pursuance to the unregistered sale deed dated 27-04-1968, the original pattedar who sold the subject land, delivered the physical possession of the subject lands and accordingly the names of the unofficial Respondent along with his two brothers Sargari Ranga Reddy and Sargari Bal Reddy were recorded as occupants as is evidenced from the pahanies for the years from 1969-70 to 2006-2007. As the unregistered sale deed executed by Buddolu Veeraiah satisfied all the legal requirements as contained under Sec. 5- A of RoR Act and Rule 22 of the RoR Rules such as sale of subject land and delivery of its possession and receipt of entire sale consideration, the 3rd Respondent rightly validated the same under the provisions of Sec. 5-A of the Act and there is no illegality in the said proceedings. Since the Petitioners contended that the said order is vitiated by principles of natural justice as no notice is issued to the legal heirs of the deceased Vendor at the time of validation, the Appellate authority remanded back to the 1st Respondent herein for denovo enquiry. In pursuant to the same, the 1st Respondent issued notices to both the parties and caused enquiry into the matter and once again issued the proceedings under Sec. 5-A of the Act

for validation of unregistered sale deed and in view of the same, the impugned order of the 1st Respondent is perfectly legal and the same does not warrant interference under Art. 226 of the Constitution of India having regard to the disputed questions raised by the petitioners."

DISCUSSION AND CONCLUSION

DISCUSSION:

6. The specific case of the Petitioners is that Late Buddolu Veeraiah was the pattedar and possessor of the land bearing Sy.Nos.775 & 776, extent Ac.25.18 gts., along with other lands of Nednoor Village, Kandukur Mandal, Ranga Reddy District. Late B. Veeraiah died in the year 1971 and after his death, his sons Balraj, Venkataiah and Gopal succeeded to his properties including the agricultural lands. During the life time, late B.Veeraiah purchased lands in the name of Balraj and Venkataiah. In family settlements the lands bearing Sy.No.775 & 776 which were patta in the name of late B. Veeraiah were allotted to B. Gopal and the brothers retained the lands purchased in their names. All the three brothers filed declarations U/s. 8 of A.P. Agriculture Land Ceiling Act, 1961. Buddolu

Gopal had no issues, therefore he had taken the 1st Petitioner herein in adoption in the year 1985. The Registration of the Adoption Deed is dated 05.12.1987. In the pahani for the year 2007 filed by the Respondent in the pattadar column, the names of Balraj, Venkataiah is recorded and on the passbook and title deed books the signature of Anji Reddy who was working as Village Assistant was also obtained. The 2nd Respondent herein then filed an application U/s. 5A of the ROR Act, 1971 for regularization of private sale deed stating that Late B. Veeraiah has sold the lands bearing Sy.Nos.775 & 776 in the year 1968 and executed sale deed on white paper and he has paid consideration to B. Veeraiah. In the application form the 2nd Respondent has made the dead person B. Veeraiah as party but along with the said application the Respondent No.2 has not filed any pahani patrika in support of his contention that he was put in possession of the land in the year 1968 and he is in continuous possession. The burden was on the 2nd Respondent to prove his case since the transaction relied upon by the 2nd Respondent is nearly 40 years

old and the 2nd Respondent has not produced any evidence nor examined any person of the village. The Mandal Revenue Officer, Kandukur Mandal, Ranga Reddy East Division, Ranga Reddy District, without following the procedure under the Rules framed for regularizing the private sale deed has issued proceedings regularizing the sale transaction and the Petitioners herein had not received any notice from the Office of the Tahsildar. When the Petitioners came to know of the proceedings dated 30.01.2008, the petitioners immediately obtained copy of the proceedings and filed an Appeal before the Court of Special Grade Deputy Collector and Revenue Divisional Officer, Ranga Reddy East Division and the Petitioners had no opportunity to contest the case by filing the counter before Tahsildar. Late B.Veeraiah has not sold the property to the Respondents nor to any other person and there was no land in the name of his sons and the 2nd Respondent had in fact created the document forging the signature of Late B. Veeraiah with a malafide intention to usurp and grab the land.

In the year 1968 no sale of agricultural land without prior permission of Tahsildar U/s.47 of A.P. (TA) Tenancy and Agricultural Lands Act was valid.

7. It is further urged by the petitioners that though Sec.47 was deleted and the invalid transfer which had taken place from 1950 to 1969 could be validated with the aid of proceedings U/s.50(B) and thereby the invalidity could be cured if the transferee or alienee did not avail himself of this opportunity of getting his alienation and possession validated U/s.50(B), he would suffer the consequences, since Section 50(B) was introduced with definite purpose to save the invalid transactions that have taken place between June, 1950 to 18th March, 1969 and the time was finally extended up to 31st March, 1972. It is further the case of the Petitioners that since in this case the transfer and delivery of possession in favour of the 2nd Respondent was not validated before 31.03.1972, therefore it remained invalid and unlawful. Since after 31.03.1972 there is no possibility of validating the sale transaction, which took place in April 1968. The sale

transaction and unauthorized possession of the land by Respondent No.1 is illegal, null and void. Merely because of the deletion of Sec.47 the transfers taken place during June 1950 to 18.03.1969 would not become valid by introducing Section 50(B), the time for validation was fixed and finally extended upto March, 1972. The 2nd Respondent did not however get the sale transaction dated 27.04.1968 validated under Section 50(B) of the Tenancy Act, 1950. Therefore, the petitioners contend that the sale transaction dated 27.04.1968 is void and possession thereunder is unlawful and illegal and the application filed U/s. 5 of ROR Act, 1971 for regularizing the sale deed dated 27.4.1968 is not maintainable because a void transaction cannot be regularized and the 2nd Respondent neither availed the sanction U/s. 47 nor got the sale deed validated U/s. 50(B) till March 1972. Therefore the 2nd Respondents alleged possession is not only void but also unlawful and the same itself is void being opposed to public policy U/s.23 of the Contract Act.

8. No counter affidavit has been filed by the 1st Respondent denying the specific averments pleaded by the Petitioners herein in the affidavit filed in support of the writ petition and the counter affidavit filed by the 2nd Respondent – Para 6 (referred to and extracted above) clearly indicates that the plea taken in the said paragraph is contrary to the observation in the order dt. 01.08.2009 in Proceedings No.A2/1292/2008, which clearly said that the 2nd Respondent contended before the Appellate Authority i.e., Special Grade Deputy Collector and Revenue Divisional Officer, Ranga Reddy East Division and stated that his name was incorporated in the Revenue Records from 1977 onwards as occupant whereas the counter affidavit filed by the 2nd Respondent in para 6 says that the 1st Respondent's name is evidenced from the pahanies from 1969-1970 to 2006-2007.

CONCLUSION:

9. A bare perusal of the relevant paragraphs of the order dt. 01.08.2009 vide Proceedings No.A2/1292/2008 passed by the Special Grade Deputy Collector and

Revenue Divisional Officer, Ranga Reddy East Division, in the Appeal filed by the Petitioners U/s. 5(5) of the A.P. Record of Right in Land and Pattedar Passbook Act, 1971, against the order of the Tahsildar, Kandukur in File No.B/4110/2005, dt. 30.01.2008 in respect of land bearing Sy.Nos.775 & 776, extent Ac.25.18 gts., situated at Nednoor Village, Kandukur Mandal, Ranga Reddy District, clearly indicates clear findings in favour of the Petitioners herein, which are based on record and the same are enlisted hereunder :

- i. The Tahsildar has not served any notice among the persons recorded in the Revenue Records.
- ii. The Tahsildar issued a proforma order in 13 (B) and (C) on 30.01.2008 without giving narrative orders showing the details of the proceedings initiated on the Xerox copy of the alleged unregistered document dt. 27.04.1968.
- iii. The original document is not verified by the Tahsildar and the original document is also not available in the file.
- iv. The witnesses of the documents were not been examined by the Tahsildar as contemplated under the provision made U/s.5(A) of the ROR Act, and under Rule 22 of the ROR Rules.

v. No Notices have been served on the persons affected before changing any entries in the Revenue Records and the alleged original documents of the 2nd Respondent were not verified at all and therefore the impugned order of the Tahsildar, Kandukur Mandal in File No.B/4100/05, dt. 30.01.2008 was devoid of merits and suffers from procedural liabilities and hence liable to be set aside.

10. A bare perusal of the proceedings dt. 01.08.2009 further indicates that it is a detailed reasoned order passed on merits duly considering the record, duly setting aside the orders of the Tahsildar, Kandukur passed in File No.B/4100/05, dt. 30.01.2008 and further cancelling the operation of the pattadar book and title deed of the 2nd Respondent in respect of land in Sy.No.775 (Ac.8.22 gts.) and Sy.No.776 (Ac.16.36 gts.) situated at Nednur Village, Kandukur Mandal, and further remanding the matter to Tahsildar, Kandukur with a specific direction to restore the original entries in the pahanies and to take up the matter afresh by conducting denovo enquiry duly following procedure as required under Rules.

11. A bare perusal of the impugned proceedings dt. 18.01.2010 of the 1st Respondent herein vide Proceedings No.B/3088/09, clearly indicate that the 1st Respondent confirmed the proceedings issued vide File No.B/4100/2005, dt. 30.01.2008 of the Mandal Revenue Officer, Kandukur Mandal, R.R. East Division, Ranga Reddy District, duly observing that the request of the 2nd Respondent/Applicant for grant of mutation by validating the unregistered document is found considerable.

12. This Court opines that the impugned proceedings dt. 18.01.2010 of the 1st Respondent herein vide Proceedings No.B/3088/09, needs to be set aside for the following reasons :

i. The proceedings dt. 18.01.2010 of the 1st Respondent, is not a speaking order and the same is passed without application of mind, without assigning any reasons, without following the due procedure as required under the Rules for conducting the de novo enquiry, contrary to the clear observations in the order

dt. 01.08.2009 vide No.A2/1292/2008 of the Special Grade Deputy Collector and Revenue Divisional Officer, Ranga Reddy East Division.

ii. A bare perusal of the impugned proceedings dt. 18.01.2010 of the 1st Respondent herein vide Proceedings No. B/3088/09, clearly indicates that the 1st Respondent herein did not consider the specific objections raised by the Petitioners herein, since there has been no discussion at all with regard to the same in the proceedings dt. 18.01.2010 of the 1st Respondent herein and the 1st Respondent did not verify the genuineness of the document in issue.

iii. This Court opines that the observation of the 1st Respondent in the impugned proceedings dt. 18.01.2010 in proceedings No.B/3088/09, that the pattadar or his legal heirs name never appeared at any point of time in pahanies over the land is absolutely false since the very same proceedings in the Tabular column pertaining to the pahanies for the year 1977-

1978 to 2006-2007 entries, clearly reflects the names of the legal heirs of B.Veeraiah i.e., Buddolu Gopal.

iv. This Court opines that the plea of the 2nd Respondent that Petitioner has an alternative remedy cannot be sustained at this point of time in view of the view taken by the Division Bench of High Court of Andhra Pradesh at Hyderabad in Judgment reported in (2003) 3 APLJ 452 in Mega City Builders Vs. A.P. State Consumer Dispute Redressal Commissioner & Another at paras 22 and 23 observed as under :

"22. It is not possible to dismiss the petitions under Article 226 of the Constitution of India as not maintainable on the ground of there being an alternative remedy available in cases where the Court has entertained and admitted the writ petition and heard on merits. It is a different matter altogether when the Court in exercise of its discretion refuse to interfere even at the threshold on the ground of availability of an alternative and efficacious remedy. But in a case where the Court having admitted the writ petition and having put the parties to trial normally cannot refuse to exercise its jurisdiction and dismiss the writ petition on the ground of availability of an alternative remedy. It is a matter always well within the discretion of the Court

and that discretion is required to be exercised in a judicial and judicious manner. It is equally a well settled proposition of law that where the order is illegal and invalid as being contrary to law, a petition at the instance of person adversely affected by it would lie to the High Court under Article 226 of the Constitution and such a petition cannot normally be rejected on the ground that an appeal lies to the authorities specified under an enactment. It needs no restatement at our hands that the Court has imposed a restraint in its own wisdom on its exercise of jurisdiction under Article 226 of the Constitution where the party invoking the jurisdiction has an adequate, alternative and efficacious remedy. The availability of alternative remedies does not oust the jurisdiction of this Court. (See for the proposition: *Khurai Municipality v. Kamal Kumar*, , *Baburam v. Zilla Parishad*, , *Hirday Narain v. I.T. Officer, Bareilly*, , *Ram and Shyam Company v. State of Haryana*, and *Estate Officer and Manager (Recoveries) APIICL v. Recovery Officer, (DB)*).

23. When an order complained of is illegal and ultra vires, this Court in appropriate cases can entertain the writ petition and adjudicate the same on merits. That on the facts and in the circumstances, we are not inclined to dismiss the writ petition on the ground of availability of alternative remedy at this stage of hearing after

its admission in the year 2010 itself by this Court for its consideration and disposal on merits.

v. In view of the law laid down by the Apex Court in judgment reported in (1998) SCC 81 in Whirlpool Corporation v Registrar of Trade Marks, Mumbai which applies to the facts of the present case and in particular, para 13 reads as under:

"13. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principles of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged."

In the present case there has been clear violation of principles of natural justice, hence, the present writ petition is maintainable.

vi. The Apex Court in the Judgment reported in (2010) 13 SCC 427 in Oryx Fisheries Pvt., Ltd., Vs. Union of India & Others at paras 36, 37 and 41 observed as under :

"The appellant gave a reply to the show cause notice but in the order of the third respondent by which registration certificate of the appellant was cancelled, no reference was made to the reply of the appellant, except saying that it is not satisfactory. The cancellation order is totally a non-speaking one. The relevant portion of the cancellation order is set out:-

"Sub: Registration as an Exporter of Marine Products under MPEDA Rules 1972. Please refer to the Show Cause Notice No.10/3/MS/2006/MS/3634 dated 23.01.2008 acknowledged by you on 28/01/2008 directing you to show cause why the certificate of registration as an exporter No.MAI/ME/119/06 dated 03/03/2006 granted to you as Merchant Exporter should not be cancelled for the following reasons: -

1. It has been proved beyond doubt that you have sent sub-standard material to M/s. Cascade Marine Foods, L.L.C., Sharjah.
2. You have dishonoured your written agreement with M/s. Cascade Marine Foods, L.L.C, Sharjah to settle the complaint made by the buyer as you had agreed to

compensate to the extent of the value of the defective cargo sent by you and have now evaded from the responsibility.

3. This irresponsible action has brought irreparable damage to India's trade relation with UAE.

Your reply dated 04/02/2008 to the Show Cause Notice is not satisfactory because the quality complaint raised by M/s. Cascade Marine Foods, L.L.C, Sharjah have not been resolved amicably. Therefore, in exercise of the power conferred on me vide Rule 43 of the MPEDA Rules, read with office order Part II No.1840/2005 dated 25/11/2006, I hereby cancel the Registration Certificate No.MAI/ME/119/06 dated 03/03/2006 issued to you. The original Certificate of Registration issued should be returned to this office for cancellation immediately.

In case you are aggrieved by this order of cancellation, you may prefer an appeal to the Chairman within 30 days of the date of receipt of this order vide Rule 44 of the MPEDA Rules.

Therefore, the bias of the third respondent which was latent in the show cause notice became patent in the order of cancellation of the registration certificate. The cancellation order quotes the show cause notice and is a non-speaking one and is virtually no order in the eye of

law. Since the same order is an appealable one it is incumbent on the third respondent to give adequate reasons.

In the instant case the appellate order contains reasons. However, absence of reasons in the original order cannot be compensated by disclosure of reason in the appellate order.

vii. The Apex Court in Judgment reported in (2010) 9 SCC 496 in Kranti Associates (P) Ltd Vs. Masood Ahmed Khan at para 47 formulated certain principles set out as under :

"47 a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

13. This Court opines that the respondent No.1, passed the order impugned vide proceedings No.B/3308/09, dated 18.01.2010 without conducting any enquiry as contemplated under rules, without giving any findings on the objections raised by the petitioners especially the objection that the alleged sale deed dated 27.04.1968 is void document as no permission under Section 47 of the Tenancy and Agriculture Lands Act, 1950 was obtained and has confirmed the earlier order dated 30.01.2008 passed by the then Mandal Revenue Officer, Kandukur Mandal contrary to the remand order dated 01.08.2009 passed

by the Special Grade Deputy Collector and Revenue Divisional Officer, Rangareddy (East Division) without application of mind, without assigning any reasons irrationally and mechanically.

14. This Court opines that the Original Impugned Order vide No.B/4110/05, dated 30.01.2008 of the Mandal Revenue Officer, Kandukur Mandal, Ranga Reddy District East Division, Ranga Reddy District and the proceedings of the Tahsildar, Kandukur Mandal, Ranga Reddy District, dated 18.01.2010 vide Proceedings No. B/3088/09 are non-speaking orders and are virtually no orders in the eye of law.

15. Taking into consideration the above referred facts and circumstances and the law laid down by the Apex Court in the various judgments (1) judgment reported in (2003) 3 APLJ 452 in Mega City Builders vs. A.P.State Consumer Dispute Redressal Commissioner & another, (2) judgment reported in (1998) SCC 81 in Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai, (3) judgment reported in (2010) 13 SCC 427 in Oryx Fisheries Pvt., Ltd., vs. Union of India & others (4) judgment reported in (2010) 9 SCC 496 in Kranti

Associates (P) Ltd. Vs. Masood Ahmed Khan (referred to and extracted above), the writ petition is allowed as prayed for and the impugned proceedings in File No.B/3088/09, dated 18.01.2010 of the Tahsildar, Kandukur Mandal, Ranga Reddy District confirming the orders passed in proceedings in File No.B/4140/2005, dated 30.01.2008 of the Mandal Revenue Officer, Kandukur Mandal, Ranga Reddy District East Division, Ranga Reddy District issued by Respondent No.1 are hereby quashed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Date: 16.08.2023

Note: L.R. Copy to be marked.

**b/o
kvrn**