

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.3135 OF 2015

Between:

Rekha Nageshwar and others

... Petitioners

And

The State of Telangana & others

... Respondents

JUDGMENT PRONOUNCED ON: 03.06.2024

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 : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

MRS. JUSTICE SUREPALLI NANDA

IN THE HIGH COURT OF TELANGANA AT HYDERABAD**WRIT PETITION No.3135 OF 2015**

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Rekha Nageshwar and others

... **Petitioners**

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... **Respondents**

< **Gist:**

> **Head Note:**

! Counsel for the Petitioners : Mr B.Narayana Reddy
Sr.Designate counsel

^ Counsel for the Respondents : G.P. for Revenue

? **Cases Referred:**

(i) (2015) 3 SCC 695

(ii) W.P.No.31767 of 2015, dated 05.03.2020

(iii) W.P.No.15438 of 2012 and batch, dated 28.04.2014

(iv) W.P.Nos.24716, 23149, 26006 of 2003, W.P.No.17499 of
2005 and batch, dated 15.11.2016

HON'BLE MRS JUSTICE SUREPALLI NANDA**WRIT PETITION No.3135 OF 2015****ORDER:**

Heard learned Senior designate counsel
Sri B. Narayana Reddy, appearing on behalf of the
Petitioners and learned Government Pleader for revenue
appearing on behalf of the Respondents.

2. **The petitioners approached the court seeking prayer
as under:**

"to issue a Writ or Order or Direction specially one in the nature of Writ of Mandamus declaring the impugned Order issued by the 2nd respondent in File No. F3/1869/2014, dated 18/12/2014 in dismissing the Revision Petition filed by the petitioners under Section 9 of the A P Rights in Land and Pattadar Pass Books Act, 1971 by treating the private patta lands of the petitioners herein situated in Sy No 356/1/E/2E, 356/1/E/2A and 356/1/E/1A to an extent of Ac 16.34 guntas and Sy No 356/3E1 to an extent of Ac 2.38 guntas in Pragnapur village, Gajwel Mandal, Medak District as Government lands and further consequential Proceedings No. B/735/2014 dated 31/1/2015 issued by the 4th respondent herein as illegal arbitrary high handed one and violative of Art 14, 21 and 300-A of the Constitution of India.

3. PERUSED THE RECORD :

A) Letter No.H/4389/2004, dated 11.11.2014 of the Revenue Divisional Officer, Siddipet Division, addressed to the District Collector, Medak District at Sangareddy reads as under :

"I invite kind attention to the references cited 1st cited, through which Sri Rekha Nageshwar S/o Malleshwar R/o Siddipet submitted application for Conversion of Agriculture lands into Non-Agriculture purpose bearing Sy. No. 356/1 & 356/3/E Extent Ac.16-34 Gts. & Ac. 2-38 Gts. situated at Pragnapur Village of Gajwel. Upon which the Tahsildar Gajwel has send proposals for conversion of land into Non Agriculture purpose vide reference 2nd cited.

Further, the Tahsildar, Gajwel Mandal has submitted a report stating that as per Sethwar the Sy.No.356 Extent Ac.399-19 gts.is Classified as Paramboke and as per the Sessala Pahani ie., 1955-58 the following entries are found available.

Sl. No.	Sy.No.	Classification	Extent	Name
1	356/1A	Patta	25-00	Udem Narsa Reddy
2	356/1AA	Patta	15-00	Bhoopathi Rao
3	356/1E		100-00	Phakeer Mohd.
4	356/2		30-00	Chetireddi Agaiah
5	356/2A		30-00	Chetireddi Rajireddy
6	356/3A		25-15	Bhoopathi Rao
7	356/3AA		10-15	Venkaramchandra Bai
8	356/3E		41-18	Laxmikantha Rao

9	356/3/EE		39-15	Narsinga Rao
10	356/3		39-15	Vijay Kumar
11	356/4UU		39-15	Veda Kumar
12	356/4		4-06	Boini Rajaram, Yellaiah
		Total	399-19	

Further the Tahsildar, Gajwel reported that same Sy.No attracted Ceiling Surplus land to an extent of Ac.36-92 cents land which has been declared as Surplus land as detailed below.

Sl. No.	Name of the Declarant	Sy.No.	Extent	C.C.No.
1	M.Laxmikantha Rao	356/3E	2-06	G/961/75
2	M.Vijay Kumar	356/3	10-71	G/962/75
3	M.Veda Kumar	356/3U	9-15	G/963/75
4	M.Bhoopathi Rao	356/1A	15-00	G/1631/75

The Tahsildar also reported that the petitioner in physical possession in Sy. No. 356/1 & 356/3/E Extent Ac.16-34Gts. & Ac. 2-38 Gts. Total extent Ac.19-32 Gts. and recommended for conversion of the land from Agriculture to Non Agriculture Purpose.

Further it is submitted that, earlier on the application of Mrs. Madhavalatha Kompella W/o Vishwanath Kompella R/o Secunderabad, Authorised representative of M/S Shri Shri Resorts Private Limited, for conversion of lands located in the same Sy.No.356 situated at Pregnapur Village of Gajwel Mandal, the District Collector, Medak vide Lr.No. D1/4305/2011, Dt. 10-4-2012 has accorded permission for conversion of Agriculture land in

Sy.No.356/P to an extent Ac.5-14½ gts. in terms and conditions prescribed in rule 7 of A.P.Agriculture land (Conversion of Non Agriculture purpose) Act, 2006 and rules 2006 while making it clear that this permission does not confer any right/title/ownership to the applicant over the land.

In view of the above, kindly clarify whether the lands situated in Sy.No. 356/1 & 356/3/E Extent Ac. 16-34 Gts. & Ac. 2-38 Gts. situated at Pragnapur Village of Gajwel can be converted into Non-Agriculture purpose or not, in favour of present petitioner."

B) Letter No.B/1194/2012, dated 03.04.2012 of the Tahsildar, Gajwel Mandal, Medak District addressed to the Sub-Registrar, Gajwel reads as under :

"It is to inform you that through the reference cited the petitioner Sri. Md.Areef s/o Shareef R/o Pregnapur village of Gajwel mandal has filed petition and requesting to issue N.O.C in respect of Sy. No. 356/1E extent 16.34 guntas situated at Pregnapur village.

On the verification of the records of this office the Sy.No. 356/1E extent 16.34 gnts is Patta land."

C) Notice of Deputy Inspector, Survey & Land Records D/2142/12, dated 08.05.2012 reads as under :

"With reference to above, it is informed to Sri Md.Shareef that we are coming to your village on 15/5/2012 at 9 am

for making measurement of your patta Sy.no.356 (Tuesday).

All the pattadars relating to patta survey number are requested to attend the same on 15/5/2012 at 9 AM Tuesday."

D) Interim Order dated 13.02.2015 passed in WPMP NO.4175 of 2015 in W.P.No.3135 of 2015, which is in force as on date reads as under :

"There shall be interim stay of dispossession.

However, it is made clear that the petitioners shall not create any encumbrance or third party rights in the property in issue."

E) The Addendum dated 28.04.2014 in W.P.No.15438/2012 and batch – reads as follows :

Summation of conclusions on Point Nos.1 to 4

- (1) A patta granted under BSO-27 confers absolute title.
- (2) An assignment made under BSO-15 prior to 18-6-1954 in Andhra Area and a patta granted under Laoni Rules before 25-7-1958 in Telangana Area confer absolute title with right to transfer the land. Unless the Revenue functionaries are first satisfied that the land is an assigned land within the meaning of sub-section (1) of Section 2 of Act 9 of 1977, no proceeding for cancellation of assignment can be initiated.

(3) In case of Laoni pattas granted on collection of market value, the pattadar is entitled to sell the land without any restrictions.

(4) In respect of estate and inam lands, ryotwari pattas/occupancy rights certificates constitute title. In case of protected tenants under the Hyderabad Tenancy and Agricultural Act 1950, the protected tenants having ownership certificates hold absolute title.

(5) In the absence of patta, revenue records form basis for determining title. A-Register/Diglot, Ledger/Chitta in Andhra Area and Sethwar, Supplementary Sethwar and Wasool Baqui in Telangana Area are the basic settlement record which provide basis for subsequent entries in the Village Accounts. Before integration of revenue record, No.1 and No.2 Accounts (old), No.3 Account, No.10 Account and Register of Holdings in Andhra Area and Pahani patrika, Chowfasla, Faisal Patti and Khasra Pahani in Telangana Area are relevant Village Accounts for determination of title. After integration of the Village Accounts under the 1971 Act, (i) Printed Diglot or A-Register, (ii) Village Account No.1, (iii) Village Account No.2, (iv) No.3 Register and (v) Village Account No.4 – Register of Holdings constitute relevant record.

(6) Between two rival claimants relying upon the entries in revenue record, the person whose name is recorded in the basic records such as A-Register and Record of Holdings and their successors-in-interest will be considered as the rightful owners. In deciding such disputes, the revenue authorities and the courts need to carefully weigh the

evidence relied upon by the rival parties with reference to the record referred to hereinbefore. Even in cases of disputes between the Government and private persons, the above referred record constitute material evidence in determination of title.

(7) While there is a presumption that all porambokes and lands reserved for communal purposes vest in the Government, no such presumption arises in respect of waste lands, assessed or unassessed

(8) A person in possession of land for 12 years or more without title can claim transfer of registry in his favour as envisaged by para-7 of BSO-31.

(9) Long possession supported by multiple registered sale transactions give rise to presumption of title. Such presumption is however rebuttable.

(10) RSR is not a stand alone document. It is one of the relevant records in determination of ownership.

(11) Description of Government land in RSR only means that it is not an inam land. It can include patta lands also.

(12) Dots or blank in pattadar column does not necessarily mean that the land is vested in or it belongs to the Government. Despite such blanks or dots, a private person can claim ownership based on entries in revenue record prepared both prior to and after the commencement of the 1971 Act, besides registered sale transactions. If the Government disputes such entries, it needs to get its right declared by instituting proceedings before the competent court of law.

(13) The entries in TSLR do not constitute conclusive proof of title.

(14) Where there is a bonafide dispute regarding title of a person in possession of the lands other than public roads, streets, bridges or the bed of the sea or the like, summary proceedings under the 1905 Act cannot be initiated. In all such cases, the Government which claims title shall approach the competent Civil Court for declaration of its title.

F) Counter affidavit filed by Respondents No.5 and 6, and in particular, Para No. 2 reads as under :

"2. In reply to Paras No. 8 to 10 of the affidavit, it is submitted that 4th respondent in his letter No.B/735/2014 Dt:31-01-2015 informed this respondent that the land in survey No.356 total admeasuring Ac.399.19 gts., and in SyNo. 358 total admeasuring Ac.450.24 gts. situated at Pregnapur Village of Gajwel Mandal was treated partly as patta land and partly as Government land. The chief commissioner of land Administration. Hyderabad in pursuance to the direction of the Hon'ble High Court. Hyderabad in W.P.No.24591 of 2013 Dt:20-0-12014 issued clarification in reference No.LA1/225/2014 D:27-10-2014 stating that the entries supplementary sethwar prevails over the entries in Khasara Pahani. In the instant case, the entries of supplementary sethwar, the land in Sy.No.356 admeasuring Ac.399.19 gts, and Sy.No. 358 admeasuring Ac.450.24 gts, are found recorded as Poramboke. He further requested this respondent not to entertain any sale

transactions over the said Government land in Sy.No.356 and 358 admeasuring Ac.399.19 gts, and Ac.450.24 gts, respectively situated at Pregnapur Village of Gajwel Mandal.

In this connection, it is submitted that the Government lands are prohibited from registration under Section 22-A(10(b) of the Registration Act, 1908 substituted through Act No. 19 of 2007 which came into force with from 20-06-2007.

Government in Memo.No. 50834/Registration - I/A1/2010-6 Revenue (Registration-I) Department Dt:22-10-2011 clarified that the documents mentioned in clauses (1)(a) to (d) of section 22-A(1) of the Registration Act, 1908 are automatically prohibited from registration as and when such properties are brought to the notice of the Registration Authority by the concerned Department/ Authority and that the said properties need not be notified in the Gazettee.

This respondent submits that the Registering Authority has to follow the list of properties furnished by the Revenue Authorities whose registration is prohibited under Sec.22-A of the Registration Act, 1908 while registering the documents. In the instant case the properties are reported to be Government lands by the 4th respondent in his letter No.B/735/2014 Dt:31- 01-2015 whose registration is prohibited under Sec. 22-A(1) (b) of the said Act.

In view of the facts mentioned above, it is respectfully submitted that the W.P. filed by the petitioner

does not deserve any consideration and hence it is prayed that the W.P. may kindly be dismissed with costs.

G) Counter affidavit filed by Respondent No.4, and in particular, Para Nos. 4 & 7, read as under :

"4. Before I advert into various allegations mentioned in the petitioners' affidavit, the same are not truly and correctly stated and the same are denied in too. It is submitted that the subject land situated in Sy.No.356 admeasuring Ac.399-19 guntas situated Pragnapur Village, Gajwel Mandal, Medak District is Government Land and classified as Poramboku Sarkari'as per the Sethwar Register. As per Pahani for the year 1950-51 the nature of the land is recorded as Poromboke Minjumla (whole property) at coloumn No.11 of the Pahani, it is mentioned as Sarkari. As per the Sessala Pahani for the year 1955-58, the said land was classified as Poromboke Minjumala and in all subsequent records it was recorded as Patta Land. On examination of the Sethwar and the Revenue Records, there is controversy between two records over the entries of the nature of the land. As per the Sethwar, which was prepared in 1931 Fasli and the subsequent records which were prepared at a later point of time this classification has been changed from Government Land to Patta Land but however there is no evidence when the change of classification from the Poromboke Sarkari Land to Patta Land is carried out by the lawful order. In these circumstances, the Chief Commissioner of Land Administration has issued circular vide CCLAS Ref. No.LA-

I/225/2014, dated 27.10.2014 clarifying that the entries made in Sethwar prevails over the entries in the Khasra Pahani until contrary is proved i.e., the entries in the Khasra Pahani are lawfully carried out from the Sethwar and the burden of proof lies upon the applicants / claimants while revising the clarifications issued by the Chief Commissioner of Land Administration in proceedings No.ROM/ROR1/178/2004, dated 21.07.2004; Ref. No.ROR1/470/2012, dated 30.03.2014 and in Ref. No. BB2/108/2012, dated 09.04.2012. Therefore, admittedly the petitioners have failed to produce any evidence that the entries in Sethwar were changed subsequently by classifying Sarkari Poromboke Land into Patta Land by lawful order of the competent authority and in the absence of the same, this respondent office has rightly passed the order dated 31.01.2015 for resumption of the land. As per the entries in the Revenue Records of Sessla Pahani for the year 1955-56, 1956-57 and 1957-58, the following entries have carried out as shown below:

Sy.No.	Extent Ac. Guntas	Name of the Pattedar
356/1A	25-00	Udem Narsareddy
356/1AA	15-00	Bhoopathi Rao
356/1E	100-00	Fhakeer Mohd.
356/2A	30-00	Ch.Agaiah
356/2AA	30-00	Ch.Raj Reddy
356/3A	25-05	Bhoopathi Rao
356/3AA	10-15	Venkat Ramchandra Bai
356/3E	41-48	Laxmikanth Rao

356/3EE	39-15	Narsinga Rao
356/3U	39-15	Vijay Kumar
356/4UU	39-15	V.Kumar
356/4	4-06	B.Rajram B.Mallaiah
	399-19	

7. It is further submitted that it is true that the petitioners have submitted an application to this respondent seeking conversion of subject land for non-agriculture purposes under the provisions of Andhra Pradesh Agricultural Land (Conversion for Non Agricultural purposes) Act, 2006 and expressed their willingness to pay the necessary conversion charges. I submit that the application submitted by the petitioners has been examined with relevant entries in the revenue records and having found that the entire land in Sy.No.356 of Pragnapur Village recorded as Poromboke Minjumla therefore their application has been rejected stating that subject lands are government lands. Further, it is also submitted that the Sethwar is settlement register prepared under section 87 of A.P. Land Revenue Act, 1317 Fasli and the Khasra Pahani was prepared under the provisions of AP(TA) Land Censes Rules 1954, these rules were made as per the powers conferred under Act 21 of 1950. Therefore, when there is statutory entries are available which shall be considered as oldest entries made in the register of Sethwar. It is bounden duty of the petitioners to establish their title over the property to enable to claim the

government land as patta land. Further, it is also not out of place to submit that in the Telangana Area, the revenue records alone depicts the nature of government lands and there is no other record or register to establish the government title. Therefore, the allegation that the petitioners are absolute owners having purchased the property has not to be countenanced and the sale deeds cannot regularize the illegal transactions and the person who is not having title cannot transfer better title and the sale deeds relied upon by the petitioners are null and void in the eye of law and not enforceable against government lands.

4. The case of the Petitioners in brief as per the averments made in the affidavit filed by the Petitioners in support of the present writ petition is as under :

i) Petitioners are owners and possessors of extents of land situated in Sy.No.356/1/E/2E, 356/1/E/2A and 356/1/E/1A, to an extent of Ac.16.34 gts., and Sy.No.356/3E1 to an extent of Ac.2.38 gts., in Pragnapur Village, Gajwel Mandal, Medak District, having purchased the same from one Mohammed Arif, Mohammed Mujeeb, Sons of Shareef and Smt. Amani Begum W/o. Shareef, vide Registered Sale Deed bearing document Nos.7112/2012 dated 04.12.2012 for an extent of Ac.16.34 gts., in Sy.Nos. 356/1/E/2E, 356/1/E/2A and 356/1/E/1A, and Ac.2.38

gts., in Sy.No.356/3E1 from one Methuku Balanarsaiah, S/o. Narsaiah, vide Registered Sale Deed Doc. No.7373/2013, dt. 16.11.2013 of the Sub-Registrar, Gajwel, 6th Respondent herein and ever since the date of purchase of aforementioned land Petitioners are in continuous possession and enjoyment of the same by doing agriculture.

ii) It is further the case of the Petitioners that Petitioners vendors and their fathers were in continuous possession and enjoyment of the aforementioned lands since the year 1950 as per the Chesala Pahani for the years 1955-56, 1956-57, 1957-58 and the land in Sy.No.356/1E admeasuring total extent of Ac.100.00 gts., stand in the name of one Mr.Fakri Mohammed. The Petitioners have made an application to the 4th Respondent herein on 22.09.2014 with a request to accord permission for conversion of the aforementioned land for non-agricultural purposes in terms of Section 4 of the A.P. Agricultural Land (Conversion for Non-Agricultural Purpose) Act, 2006 (Act No.3 of 2006) and when the 4th Respondent did not respond and did not accord permission within 60 days period nor passed any orders in terms of the said Act, Petitioner made an application to the 3rd Respondent on 16.01.2015 with a request to issue permission for conversion of the subject land for non-agricultural purposes. The

3rd Respondent also however, did not pass any orders. The then Revenue Divisional Officer, Siddipet vide letter No.H/4389/2004, dated 11.11.2014 had addressed a letter to the District Collector, Medak seeking clarification whether the land situated in Sy.No.356/1 and 356/3E admeasuring Ac.16.34 gts., and Ac.2.38 gts., situated at Pragnapur Village, Gajwel Mandal, can be converted into Non-Agricultural purposes in favour of the Petitioners herein in view of the fact that the 4th Respondent had submitted a report stating that as per Sethwar, the Sy.No.356 to an extent of Ac.399.19 gts., is classified as poramboke land. The 4th Respondent reported that the same survey number attracted the provisions of Ceiling Act to an extent of 36.92 cents which has been declared as surplus land and **the 4th Respondent further reported that since the Petitioners are in physical possession of lands in Sy.No.356/1 and 356/3/E, Ac.16.34 gts., and 2.38 gts., total extent Ac.19.32 gts., it was recommended for conversion of said land to non-agricultural purposes. On verification of record it however came to Petitioners knowledge that in the Sethwar of Pragnapur Village it was shown that the land in Sy.No.356/1 extent Ac.16.34 gts., and 356/3/E extent Ac.2.38 gts., were shown as Government Poramboke**

lands and aggrieved thereby Petitioners filed Revision Petition before the 2nd Respondent under Section 9 of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 in respect of land in Sy.No.356/1 and 356/3/E total admeasuring Ac.19.32 gts., by enclosing all the necessary documents and also filed written arguments before the 2nd Respondent. The 2nd Respondent however vide impugned order dated 18.12.2014 dismissed the Revision Petition filed by the Petitioners and directed the Respondents to take necessary action to protect the said lands from any sort of alienation. Aggrieved by the action of the 2nd Respondent in dismissing the Revision Petition filed by the Petitioners vide impugned order dated 18.12.2014 in File No.F3/1869/2014 and further consequential proceedings No.B/735/2-14, dated 31.01.2015 of the 4th Respondent to resume the said subject land, the Petitioners filed the present writ petition.

iii) The learned counsel appearing on behalf of the Petitioners mainly put-forth the following submissions :

- a) Petitioners and their vendors are in possession and enjoyment of subject lands situated in Sy.No.356/1/E/2E, 356/1/E/2A and 356/1/E/1A to an extent of Ac.16.34 gts., and Sy.No.356/3E1 to an extent of Ac.2.38 gts., in Pragnapur Village, Gajwel Mandal, Medak District since

1950 onwards and the Petitioners names were recorded by giving individual Khata Number in the concerned Revenue records of Pragnapur Village.

- b)** The Petitioners vendor had been issued a certificate by the 4th Respondent stating that the lands in Sy.No.356/1E admeasuring Ac.16.34 gts., is a patta land in Letter No.B/1194/12, dated 03.04.2012.
- c)** The Respondents No.2 to 4 had entertained several mutations by way of succession till the years 2012-13 in respect of the subject land.
- d)** The aforesaid lands are private patta lands and the plea of the 4th Respondent that the lands are poramboke lands is incorrect.
- e)** Khasara Pahani is a basic record for providing ownership to a person and the entries of the said record together with the Chesla Pahani entries and the entries in the pahanies from 1954-55 confirm absolute rights to the Petitioners for the individual extents and the Respondents No.2 to 4 cannot contend that the subject lands as poramboke lands and refused to issue Non-Agriculture Land Use Certificate in terms of Sec.4 of the A.P. Agricultural Land (Conversion for Non-Agricultural Purpose) Act, 2006 (Act No.3 of 2006).
- f)** The Petitioners are in possession and enjoyment of the subject land without any interruption from anyone including the Respondents herein.

- g)** The Vendors of the Petitioner are all having pattadar passbooks apart from entries in pahanies and Form-1(B), ROR for the last 3-decades which clearly establish the land in question as patta land.
- h)** The order impugned dt. 18.12.2014 of the 2nd Respondent and the consequential proceedings dt. 31.01.2015 issued by the 4th Respondent are orders passed without any reasoning ignoring the fact that the subject lands are recorded as patta lands in the pahanies in the year 1950-51 and also Chesla pahanies 1955-58.
- i)** Sy.No.356 was never declared as Government land nor there was any entry prohibiting registration of the said land U/s.22A of the Stamps and Registration Act.
- j)** For the last more than 6 decades ths subject lands are treated as private patta lands and Government had issued pattadar passbooks from time to time and the 2nd Respondent under exercise of revision powers has no authority to declare the subject lands as poramboke.

Basing on the aforementioned submissions the learned counsel for the Petitioner contends that the writ petition should be allowed as prayed for.

5. The learned counsel appearing on behalf of the Respondent Nos.5 and 6 placing reliance on the

averments made in the counter affidavit filed on behalf of Respondents No.5 and 6 mainly puts-forth the following submissions :

- i) The entries of Supplementary Sethwar, the land in Sy.No.356 admeasuring Ac.399.19 gts., and Sy.No.358 admeasuring Ac.450.24 gts., are found recorded as poramboke.
- ii) The subject lands covered under the present writ petition are the properties reported to be Government lands by the 4th Respondent in his letter No.B/735/2014, dated 31.01.2015 whose registration is prohibited U/s.22-A (1) (b) of the said Act.

6. The learned Government Pleader appearing on behalf of the Respondent No.4 placing reliance on the averments made in the counter affidavit in particular Para Nos.4, 7 and 8 and contends that the subject lands are Government lands and the Petitioners had failed to produce any documentary evidence which establishes the Petitioners as patta holders in respect of the subject lands and hence the writ petition needs to be dismissed.

7. DISCUSSION AND CONCLUSION :

A) The subject issue in the present writ petition pertains to the lands of the Petitioners situated in Sy.No.356/1/E/2E,

356/1/E/2A and 356/1/E/1A to an extent of Ac.16.34 gts., in Sy.No.356/3E1 to an extent of Ac.2.38 gts., in Pregnapur Village, Gajwel Mandal, Medak District and the Petitioners had filed the present writ petition aggrieved by the order of the 2nd Respondent No.F3/1869/2014, dated 18.12.2014 in dismissing the Revision Petition filed by the Petitioners under Section 9 of the A.P. Rights in Land and Pattadar Passbooks Act, 1971, by treating the subject private patta lands of the Petitioners as government lands and in recording the same in Revenue Records and further in directing the 4th Respondent to take necessary action to protect the subject lands from any sort of alienation and further consequential proceedings No.B/735/2014, dated 31.01.2015 of the 4th Respondent to resume the said subject lands into government custody as illegal, highhanded and in violation of Article 14, 21 and 300-A of the Constitution of India.

B) A bare perusal of the counter affidavit filed by Respondent Nos.5 and 6, Para No. 2 indicates a specific plea of the 5th and 6th Respondents that the land in Sy.No.356 total admeasuring Ac.399.19 gts., and in Sy.No.358 total admeasuring Ac.450.24 gts., situated at Preganapur Village of Gajwel Mandal, was treated partly as patta land and as partly as government land. Whereas

in the counter affidavit filed by the 4th Respondent at Para No.4, it is indicated that the subject land situated in Sy.No.356 admeasuring Ac.399.19 gts., situated at Pregnapur Village, Gajwel Mandal, Medak District is Government land and is classified as 'Poramboku Sarkari' as per the Sethwar Register.

C) A bare perusal of the averments made at Para 4 of the counter affidavit filed on behalf of 4th Respondent very clearly indicates the names of several pattadars in respect of extents of lands in Sy.No.356, the said tabular statement at Para Nos. 4 and 5 of the counter filed by the 4th Respondent giving the said details are extracted hereunder :

Sy.No.	Extent Ac. Guntas	Name of the Pattedar
356/1A	25-00	Udem Narsareddy
356/1AA	15-00	Bhoopathi Rao
356/1E	100-00	Fhakeer Mohd.
356/2A	30-00	Ch.Agaiah
356/2AA	30-00	Ch.Raj Reddy
356/3A	25-05	Bhoopathi Rao
356/3AA	10-15	Venkat Ramchandra Bai
356/3E	41-48	Laxmikanth Rao
356/3EE	39-15	Narsinga Rao

356/3U	39-15	Vijay Kumar
356/4UU	39-15	V.Kumar
356/4	4-06	B.Rajram B.Mallaiah
	399-19	

Sl.No.	Name of the Declarant	Sy.No.	Extent	CC.No.
1.	M.Laxmi Kantha Rao	356/3E	2-06	961/75
2.	M.Vijay Kumar	356/3	10-71	962/75
3.	M.Veda Kumar	356/3U	9-15	963/75
4.	M.Bhoopathi Rao	356/1A	15-00	1631/75

D) A bare perusal of the material document Letter No.H/4389/2004, dated 11.11.2014 of the Revenue Divisional Officer, Siddipet Division, addressed to the District Collector, Medak District at Sangareddy, (referred to and extracted above) referring to the report of the Tahsildar in its reference pertaining to October 2014 clearly observed in the said letter dated 11.11.2014 that the Tahsildar had reported that the Petitioner is in physical possession in Sy.No.356/1 and 356/3/E extent Ac.16.34 gts., and Ac.2.38 gts., total extent Ac. 19.32 gts., and recommended for conversion of the land from Agriculture to Non-Agriculture purpose and in the said

letter it is also observed that similar such permission was given in favour of one Mrs. Madhavi Latha vide Proceedings of the District Collector dated 10.04.2012, Lr.No.D1/4305/2011, in respect of the very same Sy.No.356 for conversion of agriculture land in Sy.No.356/P to an extent of Ac.5.14 ½ gts.

E) A bare perusal of material document letter No.B/1194/2012, dt. 03.04.2012 of the Tahsildar, Gajwel Mandal, Medak District addressed to the Sub-Registrar, Gajwel, clearly indicates that on verification of records of the office of the Tahsildar, Gajwel Mandal the Sy.No.356/1E extent Ac.16.34 gts., is patta land.

F) A bare perusal of the material document No. D/2142/12, dt. 08.05.2012 filed by the Petitioner in support of the present writ petition, of the Deputy Inspector, Survey and Land Records, addressed to the Village Revenue Officer and other pattadars (referred to and extracted above) clearly indicates that all the pattadars relating to Sy.No.356 patta Survey Number had been requested to attend enquiry on 15.05.2012 at 9.00 a.m.

G) A bare perusal of the order impugned dated 18.12.2014 issued by the 2nd Respondent in File No.F3/1869/2014 indicates that there is no reference to the letter dated 11.11.2014 of the Revenue Divisional Officer, Siddipet Division, nor deals with the finding that the Petitioners are in possession of the subject land, as per the report of the Tahsildar, Gajwel Mandal, Letter No.B/734/2014, dt. October 2014.

H) A bare perusal of the order impugned dated 18.12.2014 of the Joint Collector, Medak at Sangareddy, in Revision Case No.F3/1869/2014 indicates that as per Pahani 1950-51 it is clear that the entire land in Sy.No.356 is Ac.399.19 gts., and was shown at Column No.10 as Poramboke Minjumala at Column No.11 as Sarkari, Column No.12 Khata Number and in Column No.13 the names of pattadars (Nam Asami) were recorded by giving individual Khata Numbers. The said impugned proceedings dated 18.12.2014 indicates that the records pertaining to the pahani 1950-51, Chesala Pahani 1955-58 are showing the names of the vendors of the Revision Petitioner. The 2nd Respondent however, ignoring the above referred facts borne on record, though he referred the same in the order impugned dated

18.12.2014 strangely passed the order impugned dismissing the Revision Petition filed by the Petitioner preferred U/s.9 of the A.P. Rights in Land and Pattadar Passbooks Act, 1971, aggrieved with the entries made by the Tahsildar, Gajwel Mandal, by treating the patta land as Government land and recording the same in Revenue Records in respect of land in Sy.No.356/1 to an extent of Ac.16.34 gts., and Sy.No.356/3E1 to an extent of Ac.2.38 gts., situated at Pragnapur Village of Gajwel Mandal of Medak District, on the ground that Sethwar is the basic record and main document for deciding classification of lands and in the instant case it is recorded as Government Poramboke land and that the Khasara Pahani of the village is not traceable and further directed the Tahsildar, Gajwel to take necessary action to protect the subject lands from any sort of alienations. This Court opines that there is no justification in the reasoning given by the 2nd Respondent in passing the order impugned more so when the order impugned admittedly as borne on record indicates the names of the pattadars in the subject Revenue records.

I) The judgment of this Court in W.P.Nos. 24716, 23149, 26006 of 2003, W.P.No.17499/2005 and batch dated 15.11.2016 referring to exercise of revisional powers by the Joint Collector after lapse of several decades very clearly held that settled things cannot be unsettled in exercise of revisional powers after long lapse of 48 years.

J) In Joint Collector, Ranga Reddy District Vs. D. Narsing Rao reported in (2015) 3 SCC 695, the Apex Court observed as under :

“Delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time

for its correction to infinity; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority”.

K) This Court takes note of the fact that W.P.No.31767/2015 had been filed challenging the order in proceedings No.F/6606/ 2015 dated 22.09.2015 passed by 5th Respondent holding that the land in Sy.No.356 situated at Pregnapur Village of Gajwel Mandal is poramboke land (government land) and cancelled the entries standing in the name of the Petitioners along with several other persons and this Court vide its orders dated 05.03.2020 had set aside the said impugned proceedings dated 22.09.2015 which held subject lands in Sy.No.356 situated at Pregnapur Village of Gajwel Mandal as poramboke land (government land) and no writ appeal has been preferred against the said writ petition and the order has attained finality.

L) The order dated 05.03.2020 of this Court passed in W.P.No.31767 of 2015 filed by one Sri G.Raghavender Rao and 7 others pertaining to Sy.No.356 situated at Pragnapur Village of Gajwel Mandal, reads as under :

"This writ petition is filed challenging the order in Proceedings No.F/6606/2015, dated 22-09-2015 passed by the 5th respondent holding that the land in Sy.No.356 situated at Pregnapur Village of Gajwel Mandal is 'Poramboke' (Government Land) and cancelled the entries standing in the name of petitioners along with several other persons.

Learned counsel for the petitioners says that the petitioners and their predecessors are in possession and enjoyment of the land in question for more than 50 years and the impugned order is passed by exercising powers under Section 166-B (2) of the Land Revenue Act, 1317 Fasli after long lapse of 50 years suo motu on the advise of Collector and Tahsildar, which is contrary to the law laid down by Supreme Court in the judgment of Joint Collector, Ranga Reddy District v. D.Narsing Rao1 common order in W.P.No.24716 of 2003 and Batch, dated 15-11-2006 and /is in the writ petition is squarely covered by the said decisions.

Learned Special Government Pleader for learned Advocate General appearing for respondents did not dispute the contention of learned counsel for petitioners.

Both the counsel state that the /is in the writ petition is squarely covered by the judgment of Joint Collector, Ranga Reddy District v. D.Narsing Rao stated supra.

In view of the above submissions, the impugned order is set aside.

Accordingly, the writ petition is allowed to the extent indicated above. No order as to costs."

M) The Addendum dated 28.04.2014 in W.P.No.15438 of 2012 and batch – Para Nos. 12 and Para 14 read as follows :

Para 12 : "Dots or blank in pattadar column does not necessarily mean that the land is vested in or it belongs to the Government. Despite such blanks or dots, a private person can claim ownership based on entries in revenue

record prepared both prior to and after the commencement of the 1971 Act, besides registered sale transactions. If the Government disputes such entries, it needs to get its right declared by instituting proceedings before the competent court of law."

Para 14 : "Where there is a bonafide dispute regarding title of a person in possession of the lands other than public roads, streets, bridges or the bed of the sea or the like, **summary proceedings under the 1905 Act cannot be initiated. In all such cases, the Government which claims title shall approach the competent Civil Court for declaration of its title.**"

N) This Court takes note of the fact that vide Order dated 13.02.2015 passed in WPMP No.4175 of 2015 which are in force as on date (referred to and extracted above), **the Petitioners continue to be in possession of the subject lands as on date though the Petitioners had been directed not to create any encumbrance or third party rights in relation to the property in issue.**

O) A bare perusal of the consequential proceedings impugned in the present writ petition issued by the 4th Respondent vide Proceedings No.B/735/2014, dated 31.01.2015 clearly indicates the directions of the Tahsildar, Gajwel Mandal the 4th Respondent herein to the Village Revenue Officer, Pregarapur to take the

Petitioners subject lands into government custody under proper panchanama and to report compliance, based on the impugned proceedings of the 2nd Respondent dated 18.12.2014 in File No.F3/1869/2014, in obedience to the instructions of the 2nd Respondent to take necessary action to protect the subject lands from any sort of alienations, vide the impugned proceedings of the 2nd Respondent dated 18.12.2014 in file No.F3/1869/2014, the writ petition is allowed as prayed for.

8. Taking into consideration

i) The aforesaid facts and circumstances of the case,

ii) Taking into consideration Para Nos.12 and 14 of the Addendum dated 28.04.2014 in W.P.No.15438 of 2012 and batch (referred to and extracted above) it is amply clear that the Government which claims title shall approach the competent Civil Court for declaration of its title and the Government needs to get its right to declare by instituting proceedings before the competent Court of Law in respect of the Petitioners subject lands.

iii) Taking into consideration the order of this Court dated 05.03.2020 passed in W.P.No.31767/2015 which had set aside the proceedings No.F/6606/2015,

dated 22.09.2015 passed by the Revenue Divisional Officer, Siddipet, Medak District, holding that the land in Sy.No.356 situated at Pregnapur Village, Gajwel Mandal, is "Poramboke" (Government Land) and had cancelled the entries standing in the name of the Petitioners there under and several other persons, which had attained finality and duly taking into consideration that the subject lands in the present case also pertain to private patta lands of the Petitioners herein situated in Sy.No.356/1/E/2E, 356/1/E/2A and 356/1/E/1A to an extent of Ac.16.34 gts., and Sy.No.356/3E1 to an extent of Ac.2.38 gts., in Pregnapur Village, Gajwel Mandal, Medak District.

iv) Taking into consideration the interim orders of this Court passed in favour of the Petitioner in WPMP No.4175/2015 dated 13.02.2015, which are in force as on date.

v) Taking into consideration the averments made in the counter affidavit filed by the 4th Respondent at Para No.4 which clearly give the details of the patta holders as per the entries in the Revenue Record in respect of the subject lands and para No.2 of the counter affidavit filed

by Respondent Nos.5 and 6 wherein it is clearly observed and admitted that the land in Sy.No.356 total admeasuring Ac.399.19 gts., and in Sy.No.358 total admeasuring Ac.450.24 gts., situated at Pregnapur Village of Gajwel Mandal was treated partly as patta land partly as government land (referred to and extracted above)

vi) Taking into consideration the observations in the judgments (referred to and extracted above).

(a) The judgment of Apex Court in Joint Collector, Ranga Reddy District Vs. D.Narsing Rao, reported in (2015) 3 SCC 695

(b) The judgment of High Court of Telangana in W.P.No.31767 of 2015, dated 05.03.2020

(c) The judgment of High Court of Telangana in W.P.No.15438 of 2012 and batch, dated 28.04.2014

(d) The judgment of High Court of Telangana in W.P.Nos.24716, 23149, 26006 of 2003, W.P.No.17499 of 2005 and batch, dated 15.11.2016

vii) Duly considering the contents of Letter No. 4/4389/2004, dated 11.11.2014 of the Revenue Divisional Officer, Siddipet Division addressed to the

District Collector, Medak District at Sanga Reddy (referred to and extracted above)

viii) Duly considering the contents of Letter No.B/1194/2012, dated 03.04.2012 of the Tahsildar Gajwel Mandal, Medak District addressed to the Sub-Registrar, Gajwel.

ix) Duly considering the contents of the notice of Deputy Inspector, Survey and Land Records D/2142/12, dated 08.05.2012. The Writ Petition is allowed as prayed for. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

MRS. JUSTICE SUREPALLI NANDA

Dated: 03.06.2024

Note: L.R. copy to be marked

b/o

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IN THE HIGH COURT OF TELANGANA AT HYDERABAD**WRIT PETITION No.3135 OF 2015****Dated:03.06.2024**

Note:L.R.copy to be marked
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