

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No. 10607 of 2019

Between:

P.Narsimha Reddy

... Petitioner

And

The State of Telangana and others

... Respondents

JUDGMENT PRONOUNCED ON: 04.07.2023

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

W.P.No. 10607 of 2019

% 04.07.2023

Between:

P.Narsimha Reddy

..... Petitioner

And

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... Respondents

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> Head Note:

! Counsel for the Petitioner : Mr Gaddam Srinivas

^ Counsel for Respondents 1 to 4 : G.P. for Revenue

**^ Counsel for respondents 5 to 12 : Sri B.Chandrasen Reddy
Sr. Designate counsel**

? Cases Referred:

(2003) 1 ALT 3

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P.No. 10607 of 2019****ORDER:**

Heard the learned senior designate counsel, Sri E.Madan Mohan Rao, on behalf of the petitioner and learned Government Pleader on behalf of the respondents No.1 to 4 and learned Senior designate counsel Sri B.Chandrasen Reddy on behalf of unofficial respondents No.5 to 12.

2. This Writ Petition is filed to issue a Writ of Certiorari to call for records relating case no. D1/3112/2017 dated 17.05.2019 on the file of the Respondent no.2, vide Case No. D1/3112/2017 dated 17.05.2019.

3. The Case of the petitioner in brief, is as follows:

a) Petitioner's father and respondent Nos. 7 to 9 were real brothers and children of Paila Ramaiah. Paila Ramesh, Chakali Narasaiah, Chakali Saianna and Manchala Pochaiah were in the possession and enjoying the lands in Sy.No. 8, 9

and 10 situated at Narasampally Village as absolute owners as Protected Tenants.

b) The Revenue Divisional Officer confirming the same had issued the Ownership Certificate as Protected Tenants vide B/264/LRE/75 dated 15.05.1975 to the legal heirs of the above mentioned 4 (Four) persons, admeasuring Ac.11-31 gts in Sy.No 8, Ac.0.11 gts in Sy.No.9 and Ac.1.31 gts in Sy.No 10.

c) Accordingly, in pursuance to the issuance of certificate, the Revenue Authorities have accorded the sanction of mutation individually and land admeasuring Ac.2.37 gts in Sy.No.8, Ac.0.02 $\frac{1}{4}$ in Sy.No.9 and Ac.0.18 gts in Sy.No.10 was mutated in favor of the elder son of Paila Ramaiah i.e., Pailla Bal Reddy.

d) Paila Ramaiah died leaving two sons i.e., Father of the petitioner and Mr. Paila Bal Reddy, who had jointly and equally succeeded the above property. Both the sons during their lifetime had orally partitioned all the properties including the land admeasuring Ac.2.37 gts in Sy.No. 8, Ac.0.2 $\frac{1}{4}$ in Sy.No.9 and Ac.0.18 gts in Sy.No.10, in equal shares.

e) The said partition had been reduced to writing in the presence of Village elders on 07.12.1986 and pursuant to the said partition both the sons (including the father of the petitioner) came to the possession, enjoyment and enjoyed as the absolute owners.

f) Pursuant to the partition, the late father of the petitioner got the Land Admeasuring Ac.1.18 $\frac{1}{2}$ gts out of Ac.2.37 gts in Sy.No.8, Ac.0.01 $\frac{1}{4}$ gts out of Ac.2 $\frac{1}{4}$ gts in Sy.No. 9 and Ac.0.08 $\frac{3}{4}$ out of Ac.0.18 gts in Sy.No.10, a total of land admeasuring Ac.1.28 $\frac{1}{2}$ gts (would be referred to as Partitioned Property herein).

g) After the petitioner's father deceased, the petitioner succeeded the partitioned property, and the petitioner is in possession of the partitioned property and hence the petitioner had filed an application before the 4th respondent for incorporating the petitioner's name in the Revenue Records.

h) After proper conduction of enquiry, following due procedure, and also taking into consideration the MRI report,

the, mutation had been sanctioned in favor of the petitioner vide proceedings No.B/248/2003 dated 21.06.2004.

i) Despite the pattadar Pass Book and Title deeds being in favor of the petitioner, respondent no.4 did not issue Pahanies in favor of the petitioner. Aggrieved, petitioner had filed W.P. No. 32940 of 2012 and the court vide orders dated 17.10.2022 directed the 4th respondent to consider the petitioner's case for issuance of pahanies.

j) Taking advantage of the fact that the name of the petitioner, is not entered into pahanies, respondents no. 7 to 9 had transferred the lands in Sy.No. 8 and 10 to respondent no.10 and respondent sold the subject land to Respondents NO. 5, 6 and 11. The subject land had in turn been sold to respondent no.12 and the names of these respondents are included in the revenue records without issuing any notice to the petitioner herein.

k) Aggrieved by the action of respondent no.4 in, incorporating the names of Respondent nos. 5, 6, 11, & 12, petitioner had filed an Appeal before Respondent no.3 under

section 5(5) of A.P. Rights in Land & Pattedar Pass Books Act, 1971.

l) Respondent no.3, after set aside the order of the 4th respondent in incorporating the names of the respondent no. 5, 6, 11 & 12 in revenue records and passed orders in favor of the petitioner and accordingly petitioner's name had been incorporated in the Revenue Records deleting the names of the respondents vide proceedings no. B/1812/2016 dated 06.07.2016.

m) Against the orders of the respondent No.3, the respondents no. 5, 6, 11 and 12 had filed an Revision petition before the 2nd respondent on the ground that the appeal filed by the petitioner is barred by limitation.

n) Respondent no.2 vide orders dated 17.05.2019 allowed the Revision Petition in favor of respondent no.5 & 6, on the ground that 38-E certificate was issued to P. Bal Reddy and hence the land had been purchased from the rightful owners. but the order was never served to the petitioner.

o) P. Bal Reddy being the elder of the family, 38-E certificate had been issued in his favor and after issuance of

the 38-E certificate, family settlement deed had been written and the father of the petitioner got the subject property. And hence the order passed by Respondent no.2 dated 15.07.2019 is illegal. Hence the Writ Petition.

4. No counter affidavit had been filed by the unofficial respondents though official respondents had filed Counter Affidavit.

5. The counter affidavit filed by respondent Nos.5 & 6, in brief, read as under:

a) P. Bal Reddy was entitled for ownership certificate under section 38-E of Tenancy & Agricultural Lands Act, 1950 and the name of the P. Bal Reddy is reflected in the provisional list of protected tenants of the said land in Sy.No's 8, 9 and 10 of Narsampally village.

b) P. Bal Reddy had become the absolute owner and possessor of the land in Sy.No's 8, 9 and 10 in Narsampally village. Respondents no. 7 to 9, children of P. Bal Reddy had succeeded the property, to a total extent of Ac.3.17 guntas consequent to the death of P. Bal Reddy and accordingly, the revenue records were mutated in favor of respondents 7 to 9

vide Proceedings no.B/3691/2005 dated 14.09.2005, No.B/714/2006 dated 18.12.2006 & B/1103/2013 dated 28.08.2013.

c) After succeeding the said subject land, respondents no. 7 to 9, sold an extent of Ac.3 Guntas to Gowrla Mallesh vide sale deed No. 6398 of 2004 dated 10.06.2004 and the Mr. Gowrla Mallesh having received the sale consideration had executed a Sale Agreement cum General Power of Attorney vide document no. 5745 of 2005 dated 12.09.2005 in favor of Mr. KVVK Prasad to an extent of Ac.3.00 gts and the said subject land was in turn sold for answering respondents.

d) Petitioner filed Appeal case no. A2/44/2015 under section 5(2) of Record of Rights Act before the 3rd respondent challenging the mutations and the 3rd respondent without taking into consideration the grounds raised by the respondents herein had allowed the appeal vide orders dated 21.04.2016.

e) Aggrieved by the order of respondent no.3, respondents filed revision petition before respondent no.2 in Revision case No.D1/3112/2117 and the 2nd respondent allowed the revision

setting aside the order of the 3rd respondent in the Appeal and the petitioner is challenging the order passed in the Revision Petition by the 2nd respondent.

f) For the reason that the petitioner shares the same blood as P. Shiva Reddy is baseless and untenable as, neither Mr. P. Siva Reddy nor Mr. P. Ram Reddy were having any right or interest over the said land. Moreover, P. Bal Reddy alone was recognized as protected tenant and was entitled for grant of ownership certificate under section 38-E of the Tenancy Act and was given ownership certificate individual capacity.

g) Respondent no.4 ought to have looked into the facts and circumstances and should not have allowed the Appeal filed by the petitioner.

h) Even this Writ Petition is not maintainable, as the remedy is provided under section 8 (2) of the Tenancy Act and not to file Writ Petition. There had never been instance where Mr. P. Bal Reddy had orally partitioned the land with P. Shiva Reddy and hence the petitioner is not entitled to any extent of the subject. Hence the Writ Petition is liable to be dismissed.

6. PERUSED THE RECORD

(i) Proceedings issued by the Mandal Revenue Officer, Keesara Mandal, Ranga Reddy District issued vide proceedings no. B/248/2003 dated 21.06.2004 reads as under:

"Sri/SmtPaila Narsimha Reddy, S/o. Late Shiva Reddy R/o Narsampally Village, Keesara Mandal, R.R District has applied for grant of succession/mutation vide reference 1st cited on receipt of the reference the records have been verified and found that the executant/pattadar in sale deed No...are one and the same. The notification under section 5 (3) of A.P. Record of Right Act, 1971 has been issued through reference 2nd cited for calling objection on grant of mutation/Succession in favor of the said petitioner. During the stipulated period of (45) days of said notification no objection have been received. Hence the request of the petitioner been considered to record his/her name in the revenue records i.e., village pahani as pattadar of Sy.No. 8, 9, 10 Extent (1-18 ½) (1-01 ¼) (0-08 ¾) total 1.28 ½ Guntas Acres situated in the limits of ... village of this mandal duly taking the necessary entries the amendment register of said village while deleting the names of existing pattadar as shown below:

Sy.No	Total Extent	Name of the present pattadar	Name to be incorporated	Extent	
				Sy. No	Extent
8	2.37	Paila Bal Reddy, S/o Ram Reddy	Paila Narasimha Reddy, S/o Late Shiva Reddy	8	1.18 ½
9	0.02 ¼	Paila Bal Reddy, S/o Ram Reddy	Paila Narasimha Reddy, S/o Late Shiva Reddy	9	0.01 ¼
10	0.18	Paila Bal Reddy, S/o Ram Reddy	Paila Narasimha Reddy, S/o Late Shiva Reddy	10	0.08 ¾
(One Acre Twenty Eight and Half only)					1.28 ½

(ii) Order dated 21.04.2016 in the case of A2/44/2015 issued by Special Grade Deputy Collector and Revenue Division Officer, Malkajgiri Division, Rangareddu District reads as under:

“Perused the material evidences filed by the appellants. The present appeal is filed against the orders of the Tahsildar Keesara in file No. B/3691/2005, dated: 14.09.2005, file No. B/714/2006, B/3335/2012, dated: 15.12.2012&B/1103/2013, dated: 28.08.2013 in respect of the land in Sy Nos. 8 (1-18 ¼), 9 (0-01 ¼), 10 (0-08 ¾) total extent Ac: 1-28½ gts situated at Narsampally village, Keesara Mandal.

On perusal of the material papers, it is evident that, originally Sri. Pallar Ram Reddy was the pattadar of the lands in Sy.No. 8 (2-37), 9 (2-00 ¼), 20 (0-18), he expired leaving behind Bal Reddy and Shiva Reddy

sons with equal shares to the said property. The sons Bal Reddy expired leaving Respondents 1.2.3 as his legal heirs and Shiva Reddy also expired leaving behind the appellant as his legal heir.

A perusal of the documents put forth before me, it is observed that the Tahsildar Keesara vide Procs No B/248/2003, dated: 21.06.2004 has mutated the lands in Sy No. 8(1-18 $\frac{1}{2}$), 9(0-01 $\frac{1}{4}$) 10 (0-08 $\frac{3}{4}$) total extent Ac 1-28 $\frac{1}{2}$ gts situated at Narsampally village in favour of the appellant. In pursuant to the said proceedings, the appellant's name was entered in 1B-Register and PPBs & TDs was issued to the appellant. But the same authority Le Tahsildar Keesara did not exclude the subject lands from the joint family and without verifying the entries in 1B-Register, issued different proceedings i.e., B/3691/2005 dt.14.09.2005, B/714/2006. B/3335/2012 dated 15.12.2012 and B/1103/2013 dt 25.08.2013 in favour of the respondents including the extent of the appellant.

The Tahsildar Keesara Mandal, who transferred the land in favour of respondents including share of appellant ought to have seen the earlier orders issued in favour of appellant and notices ought to have been issued to the appellant. Issuance of notices to the interested parties is mandatory before affecting any changes in the record of rights. Thus, I am of the opinion that the orders issued by the Tahsildar Keesara

vide Procs No B/3691/2005, dated: 14.09.2005, B/714/2006, B/3335/2012, dated: 15.12.2012 and B/1103/2013, dated: 28 08 2013 are not in accordance with law and suffers from legal infirmity and liable to be set-aside.

In view of the above facts and circumstances, it is hereby ordered that the orders passed by the Tahsildar Keesara vide Procs No. B/3691/2005, dated: 14.09.2005, B/714/2006, B/3335/2012, dated: 15.12.2012 and B/1103/2013, dated: 28.08.2013 in respect of the land bearing Sy.No. 8(1-18 $\frac{1}{2}$). 9(0-01 $\frac{1}{4}$) & 10 (0-08 $\frac{3}{4}$) total extent Ac: 1-28 $\frac{1}{2}$ gts situated at Narsampally village, Keesara Mandal, Ranga Reddy District are hereby set-aside and the Tahsildar Keesara is hereby directed to incorporate the necessary changes in the record of rights taking into consideration of the earlier orders passed by the then Tahsildar Keesara in file No. B/248/2003, dated: 21.06.2004 under the provisions of the ROR Act.

Accordingly, the appeal is allowed and disposed off."

(iii). The order dated 17.05.2019 issued by the Joint Collector, Medchal-Malkajgiri District, Keesara vide case No. D1/3112/2017 reads as under:

"Having gone through all the documents filed and material available on record. it is observed that the

Appellant Authority have chosen to ignore the contents in Tahsildar, KeesaraLr.No B/248/2003 dated: 17.08.2004 addressed to the then SGDC &RDO, RR East Division for cancellation of orders issued vide Procgs No B/248/2003 dt: 21.06.2004 and the PPB/TDs No 434364 & 438536 and also to enable to conduct enquiry afresh since the same were obtained by misrepresentation. The then SGDC & RDO, RR East has rightly advised the Tahsildar to report to the Collector for fresh enquiry.

Further it is revealed that the Revision Petitioners have purchased the subject land from the rightful owners who obtained 38-E certificates through Registered Documents and also obtained mutation vide Tahsildar orders in Procgs.No.B/714/2006 dated: 18.12.2006. However, the orders of Tahsildar in No B/3691/05 dt: 14.09.2005, B/3335/2012 dt: 15.12.2012 and B/1103/2013 dt: 28.08.2013 are rightly set aside, since the Tahsildar himself has requested for cancellation of orders in Procgs No B/248/2003 which are the basis for the above three subsequent orders. While the cancellation for said order is under consideration. the Tahsildar ought to have held the mutation applications pending, that are based on the fabricated family partition agreement until the disposal of the same U/s 9 of the Act.

It is claimed that the Respondent No.1 is the grandson of the original Protected Tenant Pailla Ram Reddy who expired leaving behind his two sons (1) Pailla Bal Reddy and (2) Pailla Shiva Reddy. However as per records only the name of Pailla Bal Reddy is recorded as Pattedar and Possessor but nowhere there is a mention of P. Shiva Reddy who is the father of Respondent No.1. Further there is no significant reason found as to why the Respondents herein filed for an appeal before the Appellant Authority after a long lapse of time and how the Appeal was entertained casually without any delay condonation petition. Therefore, the orders of SGDC & RDO in Procgs No.A2/44/2015 dt: 21.04.2016 lack legal infirmity and liable to be set aside.

In the process of hearing the counsel for Revision Petitioner filed a memo stating that the Respondent No.9 Le., Tahsildar, Keesara has issued Pattedar Pass Books to Respondent No.1 in spite of Interim Stay of all further proceedings are subsisting. Therefore the same have to be cancelled. Even after giving ample opportunity. the Respondents have failed to file any counter or submissions. The Revision Petitioners have also filed written arguments and based on the records before this court, the orders of SGDC & RDO in Procgs.No.A2/44/2015 dt: 21.04.2016 are hereby set aside and the Tahsildar, Keesara is directed to incorporate necessary changes under the provisions of ROR Act."

(iv). The Orders dated 29.05.2019 passed in W.P. No. 10607 of 2019 reads as under:

“Heard the learned counsel for the petitioners, Mr. K.Mahipathi Rao, learned Government Pleader for Revenue for respondent Nos. 1 to 4, and learned counsel for respondent Nos. 5 & 6.

Issue notice to respondent Nos. 7 to 12.

Personal notice is permitted.

There shall be interim suspension as

prayed for.

List this case on 12-06-2019.”

DISCUSSION AND CONCLUSION:

7. A bare perusal of the order impugned dt. 17.05.2019 passed by the Joint Collector, Medchal-Malkajgiri District, in a Revision Petition filed U/s.9 of A.P. Record of Rights in Land and Pattedar Passbooks Act, 1971 by the Respondents No.5 & 6 in the present writ petition aggrieved by the order of SGDC and RDO, Malkajgiri in Proceedings No.A2/44/2015, dt. 21.04.2016 in respect of land bearing Sy.No.8(1-18½), Sy.No.9(0.01¼), Sy.No.10 (0.08 ¾th) total admeasuring Ac.1.28½ gts., situated at Narsampalli Village, Keesara Mandal, Medchal-Malkajgiri (Old Ranga Reddy) District, indicates that the Revision Petition

filed by the Respondents No.5 and 6 in the present writ petition is allowed duly setting aside the orders of SGDC and RDO i.e., the 3rd Respondent herein in Proceedings No.A2/44/2015, dated 21.04.2016 and the Tahsildar, Keesara is directed to incorporate necessary changes under the provisions of ROR Act and the same clearly indicates that the order impugned dated 17.05.2019 is passed in Case No.D1/3112/2017 of the 2nd Respondent herein without issuing notice to the petitioner, without providing reasonable opportunity of hearing to the petitioner, and strangely it is observed in the order impugned dated 17.05.2019 that even after giving ample opportunity the respondents have failed to file any counter or submissions.

8. A bare perusal of the Proceedings dt. 21.06.2004 of the Mandal Revenue Officer, Keesara Mandal, Ranga Reddy District, which admittedly had not been challenged till as on date though mutation orders had been issued in favour of the Petitioner herein vide No.B/248/2003, dt. 21.06.2004 indicates that the request of the Petitioner had been considered to record

Petitioner's name in the Revenue Records as pattedar of Sy.Nos.8, 9 and 10 extent 1.18½, 1.0¼, 0.08¾, total 1.28½ cents of Narsampalli Village, Keesara Mandal, Ranga Reddy District.

9. A bare perusal of the contents of the order dt. 21.04.2016 in Case No.A2/44/2013, filed by the Petitioner herein before the 3rd Respondent in an Appeal filed U/s.5(5) of A.P. Record of Rights in Land and Pattedar Passbooks Act, 1971 clearly indicates that the Petitioner filed an Appeal U/s.5(5) of A.P. Record of Rights in Land and Pattedar Passbooks Act, 1971 against entries/amendments made by the Tahsildar, Keesara Mandal, Ranga Reddy District, vide File No.B/3691/2005, dt. 14.09.2005, B/714/2006, B/3335/2012, dt. 15.12.2012 and B/1103/2013, dt. 28.08.2013, in the Revenue Records of Narsampalli Village in respect of land bearing Sy.Nos.8, 9 and 10 extent 1.18½, 0.10¼, 0.08¾, total 4.19 gts., situated in Pudur Village, Medchal Mandal, Ranga Reddy District and to record their names in Revenue Records as pattedars and possessors. On the ground that no notice

has been issued to the Petitioner herein and in view of the fact that issuance of notices to the interested parties is mandatory before effecting any changes in the Records of Rights, with a clear finding that the orders issued by the Tahsildar, Keesara in favour of the unofficial Respondents No.6 to 12 herein, including the extent of the Petitioner, vide Proceedings No.B/3691/2005, dt. 14.09.2005, B/714/2006, B/3335/2012, dt. 15.12.2012 and B/1103/2013, dt. 28.08.2013 suffered from legal infirmity and observing the same the 3rd Respondent herein had set aside the said orders and further directed the Tahsildar, Keesara to incorporate the necessary changes in the Record of Rights taking into consideration of the earlier orders passed by the then Tahsildar, Keesara in File No.B/248/2003, dt. 21.06.2004 under the provisions of the ROR Act where under the Petitioner's name has been recorded as pattedar in respect of land to an extent of 1.28½ cents in Sy.Nos.8, 9 and 10 of Narsampalli Village, Keesara Mandal, R.R. District.

10. It is mainly contended by the learned Senior designate counsel appearing on behalf of the Petitioner as follows :

That the Petitioner had not been issued any notice nor provided with a reasonable opportunity of hearing prior to passing the order impugned dt. 17.05.2019 in Case No.D1/3112/2017 and the same is contrary to Sec.5(3) of ROR Act, which reads as under :

Section 5(3) :

5. (1) On receipt of intimation of the fact of acquisition of any right referred to in section 4, the [Mandal Revenue Officer] shall determine as to whether, and if so in what manner, the record of rights may be amended in consequence thereof and shall carry out the amendment in the record of rights in accordance with such determination:

Provided that no order refusing to make an amendment in accordance with the intimation shall be passed unless the person making such intimation has been given an opportunity of making his representation in that behalf.

(2) Where the [Mandal Revenue Officer] has reason to believe that an acquisition of any right of a description to which section 4 applies has taken place and of which an intimation has not been made to him under that section and where he considers that an amendment has

to be effected in the record of rights, the [Mandal Revenue Officer] shall carry out the said amendment in the record of rights.

(3) The [Mandal Revenue Officer] shall, before carrying out any amendment in the record of rights under sub-section (1) or sub-section (2) issue a notice in writing to all persons whose names are entered in the record of rights and who are interested in or affected by the amendment and to any other persons whom he has reason to believe to be interested therein or affected thereby to show cause within the period specified therein as to why the amendment should not be carried out. A copy of the amendment and the notice aforesaid shall also be published in such manner as may be prescribed. The [Mandal Revenue Officer] shall consider every objection made in that behalf and after making such enquiry as may be prescribed pass such order in relation thereto as he deems fit.

And the Writ Petition needs to be allowed.

11. The learned Senior designate Counsel appearing on behalf of the Respondents No.5 to 12 on the other hand contends that the writ petition has to be dismissed on the following grounds :

(i) that the petitioner has no locus standi since the petitioner sold the subject property vide 2 Sale Deeds in the year 2019 and 2023,

(ii) that Appeal was filed by the Petitioner U/s.5(5) of the A.P. ROR Act, 1971, before the 3rd Respondent herein without filing any petition seeking condonation of delay after a long lapse of time and the same was entertained casually by the 3rd Respondent.

(iii) that the Suit O.S.No.284/2004 filed by the Petitioner herein on the file of the Junior Civil Judge, R.R. District at Medchal for physical injunction restraining the Respondents there under i.e., Respondents No.7 to 10 herein and another has been dismissed for default vide order dt. 18.02.2008 on the subject property pertaining to 1 acre 28 ½ gts., in Sy.No.8, 9 and 10 situated at Narsampalli Village, Keesara Mandal, Ranga Reddy District.

(iv) That as per Sec.5(5) of the A.P. ROR Act, 1971, a single Revision Petition against all the orders issued on different dates clubbing all the persons differently situated in one Appeal is not legal.

12. This Court opines that the order impugned passed by the 2nd Respondent vide proceedings in Case No.D1/3112/2017, dt. 17.05.2019 needs to be set aside for the following reasons :

(i) The Order impugned dt. 17.05.2019 of the 2nd Respondent is an unreasoned cryptic order, since there is no discussion at all by the Revisional Authority in justifying the passing of the said impugned order.

(ii) The 2nd Respondent failed to take into consideration the fact that the order dt. 21.06.2004 of the Mandal Revenue Officer, Keesara Mandal, R.R. District, vide Proceeding No.B/248/2003 in granting mutation orders in favour of the Petitioner had become final since the same had not been challenged as on date.

(iii) The order impugned dt. 17.05.2019 of the 2nd Respondent herein has been passed mechanically in a routine casual manner without application of mind.

(iv) The order impugned has been passed clear violation of Sec.5(3) of ROR Act, 1971.

(v) Para 10 of the Division Bench Judgement dt. 08.10.2022 passed in B.G.Laxman (died) per LRs Vs. Joint Collector & Others, reported in (2003) 1 ALT 3 reads as under :

10. It is true that the Mandal Revenue Officer who is the primary authority on receipt of intimation of the fact of acquisition of any right referred to under Section 4, before directing mutation of entries, is required to issue notice in writing to all persons whose names are entered in the record of rights and who are interested in or affected by the amendment and to any other persons whom he has reason to believe to be interested therein or affected thereby to show cause within the period specified therein as to why the amendment should not be carried out. **What Sub-section (3) mandates is undoubtedly issuance of notice to all persons who may be having right or interest in the land in question in respect of which mutation is sought.**

The Legislature itself has not prescribed any particular mode of service in Sub-section (3) of Section 5 of the Act. No other provisions of the Act were brought to our notice by the learned counsel who argued before us which prescribe any particular mode of notice to be served under Sub-section (3) of Section 5 of the Act. In

the absence of such prescription by the lawmaker itself, the Governor of Andhra Pradesh in exercise of the powers conferred by Sub-section (1) of Section 11 of the Act has framed the Rules. Rule 19 of the Rules reads as follows:

"19. (1) The notice referred to in Sub-section (3) of Section 5 of the Act shall be in Form VIII.

(2) Such notice together with a copy of the amendment shall also be published in the manner specified in clauses (a) to (e) of Sub-rule (2) of Rule 5."

13. This Court opines that the plea put-forth by the Learned Counsel for the Respondents on the ground of Locus is negatived since the Petitioner sold a small portion of the subject land and the Petitioner as a Vendor of the said subject land still has locus since he has a duty towards the Vendee. Taking into consideration para 10 of the judgment dated 08.10.2022 passed in B.G.Laxman (died) per LRs Vs. Joint Collector & Others, reported in (2003) 1 ALT 3 (referred to and extracted above) the order impugned dt. 17.05.2019 in Case No.D1/3112/2017 is quashed duly taking into consideration the law laid down by the

Division Bench Judgement dt. 08.10.2022 passed in B.G.Laxman (died) per LRs Vs. Joint Collector & Others, reported in (2003) 1 ALT 3, since the same is passed contrary to Sec.5(3) of the Telangana Rights in Land and Pattadar Passbooks Act, 1971, and the matter is remitted to the Special Tribunal constituted under Sec.16(1) of the Telangana Rights in Land and Pattadar Passbooks Act 2020, in view of the fact that the Telangana Rights in Land and Pattadar Passbooks Act, 1971, had been repealed from the date of commencement of Telangana Rights in Land and Pattadar Passbooks Act, 2020, and therefore the Special Tribunal shall consider afresh Case No.D1/3112/2017, filed by the Petitioner herein preferred by the petitioner herein aggrieved by the order of SGDC and RDO, Malkajgiri in Proceedings No.A2/44/2015, dt. 21.04.2016 in respect of land bearing Sy.No.8(1-18½), Sy.No.9(0.01¼), Sy.No.10 (0.08 3/4th) total admeasuring Ac.1.28½ gts., situated at Narsampalli Village, Keesara Mandal, Medchal-Malkajgiri (Old Ranga Reddy) District, in accordance to

law, in conformity with principles of natural justice. In so far as the other pleas raised by the counsel for the Respondent is concerned this Court opines that the same may be urged before the Special Tribunal having jurisdiction.

14. The Special Tribunal is directed to issue notice in advance, fixing the date of hearing, give opportunity of hearing to both parties, consider their respective submissions uninfluenced by the observations of this Court on merits. The entire exercise shall be completed within a period of six weeks from the date of receipt of copy of the order.

15. In view of the above observations, the writ petition is allowed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Dated: 04.07.2023

Note: L.R. copy to be marked

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