

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD****W.P. No. 24316 of 2019****Between:**

Akula Srinivas

... Petitioner

And

The State of Telangana and others

... Respondents

**JUDGMENT PRONOUNCED ON: 29.01.2024****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?

---

**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 24316 of 2019****% 29.01.2024****Between:**

# Akula Srinivas

..... Petitioner

**And**

\$ The State of Telangana and others

... Respondents

&lt; Gist:

&gt; Head Note:

!Counsel for the Petitioner: Mr T.Ramchander Rao

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

^Counsel for respondent No.5: Mr J.Kanakaiah

Mr Narender Jalli

? Cases Referred:

**HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 24316 of 2019****ORDER:**

Heard Mr T.Ramchander Rao, learned counsel appearing on behalf of the petitioner and G.P. for Revenue appearing on behalf of respondents 1 to 4 and Mr J.Kanakaiah, learned counsel appearing on behalf of respondent No.5.

2. **The petitioner approached the Court seeking prayer as under:**

"to issue a writ , order or direction more particularly one in the nature of Writ of Certiorari call for the records pertaining to and connected with order dated 04.05.2019 in file No.D1/433/2017 passed by the 2<sup>nd</sup> respondent and order dated 21.01.2015 vide Proc.No.A/437/2012 passed by the 3<sup>rd</sup> respondent and quash the same as illegal, arbitrary, violative of principles of natural justice and also violative of Articles 21 and 300-A of the Constitution of India."

**PERUSED THE RECORD.**

**3. The relevant portion of the impugned order dated 21.01.2015 vide file No.D1/437/2012 of the Revenue Divisional Officer-cum-Sub Divisional Magistrate, Manthani i.e. the 3<sup>rd</sup> respondent, reads as under:**

“That after perusal of entire records the Tahasildar, Manthani it revealed that the respondent no. 1 did not file any simple sale deed alleged to be purchased from its respected pattedar and on the other hand as per the school record and election card his date of birth is differing, more over entire Pahanees the father of the appellant name is mentioned and the name of the respondent no. 1 or his father is no where mentioned and no proof of service of notices are found with record of the Tahasildar, Manthani ie, respondent no.2. till date of issuing of PPB's & TD's as such it is creating cloud over the purchase of respondent no.1 or his father. Therefore it can be presumed that if really father of the respondent no. 1 purchased the disputed land in the name of respondent no. 1 the father's name of appellant could not have been mentioned and in the absence of valid cogent evidence from the side of respondent no.1, 1 hold that the respondent. No. 2 erred in issuing ROR PPB's & TD's in the name of the respondent no.1 and not followed the procedure contemplated under the ROR Act.

In view of the above facts and circumstances this appeal is allowed by cancelling the ROR Proc. No

MNT/94/98, dt: 07-06-1999 PPB's & TD's No. 177798 with patta No. 1915 issued by the respondent no. 2 in favour of the respondent no 1 with direction to rectify the entries accordingly.

**4. The relevant portion of the impugned order dated 04.05.2019 vide file No.D1/433/2017 of the Joint Collector, Peddapalli District i.e. the 2<sup>nd</sup> respondent, reads as under:**

“Heard arguments and perused the records. The alleged Janmapathrika cannot be considered as valid document. The school record reveal, the date of birth of the revision petitioner is 04.02.1974 and the alleged sale deed was executed on 10.06.1974 and there is no mention therein that the land was purchased in his name by his father and the revision petitioner has not produced any documentary evidence that, himself or his father is in enjoyment of the land from date of purchase. Further revision petitioner also failed to put forth any further evidence in support his claim.

In view of the above, the revision petition is dismissed and the order passed by the Respondent No.2 is upheld.”

5. The case of the petitioner, in brief, is that the petitioner's father purchased the land in petitioner's name to an extent of Ac.2.34 guntas in Survey No.611/B, situated at Manthani

Village and Mandal, Peddapalli District from its owner Madaraboina Pedda Sammaiah S/o Komuraiah through a simple sale deed (unregistered) on 10.06.1974. While so the 5<sup>th</sup> respondent brought into existence an agreement dated 05.05.2011 with forged signature of the petitioner, as if the land to an extent of Ac.3.34 guntas in Survey No.611 situated at Manthani Village was allotted to the 5<sup>th</sup> respondent share in family partition. The revenue officials got incorporated the name of the 5<sup>th</sup> respondent as possessor in the revenue records including pahanis. The 5<sup>th</sup> respondent is the 2<sup>nd</sup> junior paternal uncle of the petitioner. The 5<sup>th</sup> respondent filed appeal on 07.06.1999 before Mandal Revenue Officer, Manthani after lapse of 12 ½ years and the said appeal was allowed on 19.08.2013 without appreciating any material. Aggrieved by the same, the petitioner preferred revision before the 2<sup>nd</sup> respondent, Joint Collector, Karimnagar and the same was ordered on 07.12.2013 and the matter was remanded to the Revenue Divisional Officer, Manthani for fresh disposal. The 3<sup>rd</sup> respondent, Revenue Divisional Officer, Manthani passed order on 21.01.2015, vide Proc.No.A/437/2012 allowing the appeal and cancelling the

ROR Proc.No.MNT/94/98, dated 07.06.1999, PPB's and TD's No.177798 with patta No.19115 and hence, the present writ petition is filed.

**6. The main contentions put forth by learned counsel appearing on behalf of the petitioner are as follows:**

- a) The 2<sup>nd</sup> respondent, Joint Collector, Peddapally ought to have seen that the father of the petitioner purchased the land in the name of the petitioner through a simple sale deed in the year 1974 and by that time the petitioner is infant child.
- b) The 2<sup>nd</sup> respondent ought to have see that the then Mandal Revenue Officer, Manthani rightly passed mutation orders in favour of the petitioner.
- c) The 2<sup>nd</sup> respondent had given much weight to the unnecessary issue about the contravention in the date of birth of the petitioner, though it is not necessary. In this regard it is submitted that the general public in remote villages do not record or take note of a new born child. But at the time of admitting such child in the school, the mention of the date of birth of such child is generally as per their imagination without any previous record. In this process so many wrong entries of dates of birth were recorded in so many schools in the State,

which ultimately resulted in filing suits for correction of dates of birth by the affected candidates and ultimately such dates of birth had been corrected. In the instant case, petitioner's date of birth was wrongly mentioned in Janma Patrika, which was submitted before the Joint Collector and RDO. The petitioner also submitted the school record showing petitioner's date of birth as 04.02.1974.

d) It is the specific case of the petitioner that as per the school record petitioner's date of birth is 04.02.1974. Though the school record pertaining to my date of birth was submitted as proof before the RDO as well as the 2<sup>nd</sup> respondent, the same was not considered by the 2<sup>nd</sup> respondent and the RDO. Even the 2<sup>nd</sup> and 3<sup>rd</sup> respondents did not consider the revenue record, which was submitted by the petitioner, wherein petitioner's name is clearly appearing as possessor and the name of Sammaiah is being shown as pattadar.

e) The 2<sup>nd</sup> respondent failed to see that the pattadar pass book and title deed have been issued to the petitioner long back and the name of the petitioner had been mutated in the revenue records by validating the simple sale deed.



f) The 2<sup>nd</sup> respondent ought to have held that the appeal filed before the 3<sup>rd</sup> respondent by the 5<sup>th</sup> respondent is belated and time barred, which was filed after lapse of 12½ years i.e. in the year 2012 i.e. after passing of the order by Mandal Revenue Officer in the year 1999.

g) The 2<sup>nd</sup> respondent ought to have held that the very appeal filed by the 5<sup>th</sup> respondent is not maintainable in law as barred by limitation. Hence ought to have held that the 5<sup>th</sup> respondent had no merits in his case, but not doing so, the 2<sup>nd</sup> respondent had given much weight to the date of birth produced by the 5<sup>th</sup> respondent, and thereby rendered grave injustice.

h) The 2<sup>nd</sup> respondent ought to have verified the revenue records, such as pahanies, pattadar pass book and school record etc.

i) The 2<sup>nd</sup> respondent ought to have rejected the claim of the 5<sup>th</sup> respondent by holding the agreement dt. 5-5-2011 alleged to have been executed by the petitioner about allotment of the land to an extent of Ac. 3.34 guntas to the 5<sup>th</sup> respondent, as forged and created. In this regard the 2<sup>nd</sup> respondent ought to have noticed/ observed that in the

alleged agreement land extent shown as Ac.3.34 guntas, but the actual extent is Ac.2.34 guntas only in Sy. No.611B.

j) The 2<sup>nd</sup> respondent ought to have noticed that the 5<sup>th</sup> respondent had shown extent of Ac.3.34 guntas and sometimes shown Ac. 4.00 guntas in Sy. No.611, but the actual extent of the land is only Ac.2.34 guntas. The 2<sup>nd</sup> respondent ought to have noticed that agreement dated 05.05.2011 was brought into existence by the 5<sup>th</sup> respondent with forged signature of the petitioner and ultimately ought to have rejected the false claim of the 5<sup>th</sup> respondent, by not doing so, the 2<sup>nd</sup> respondent rendered grave injustice.

**k) The 2nd respondent did not consider the evidence produced by the petitioner, wherein in the school record it is categorically mentioned that the date of birth of the petitioner is 04.02.1974.**

l) The 2<sup>nd</sup> respondent or 3<sup>rd</sup> respondent never mentioned about the revenue record and other documents produced by the petitioner anywhere in the impugned order. Thus it is clear that the 2<sup>nd</sup> and 3<sup>rd</sup> respondent did not scrutinize or verify the evidence submitted by the petitioner in proper manner and on

the other hand they gave much weight to the evidence of the 5th respondent, and thus rendered grave injustice.

m) The 2<sup>nd</sup> and 3<sup>rd</sup> respondents ought to have taken into consideration that the Mandal Revenue Inspector-I Manthani conducted panchanama in the presence of Mediators and witnesses, which clearly shows the possession and enjoyment of the petitioner for the last 15 years, as on the date of conducting of the said Panchanama. This crucial aspect was not considered by the 2<sup>nd</sup> respondent or the 3<sup>rd</sup> respondent in proper perspective, and thereby the 2<sup>nd</sup> respondent rendered grave injustice.

n) All the above crucial aspects are not considered by the 2<sup>nd</sup> respondent in proper perspective and rendered grave injustice to the petitioner by dismissing the revision preferred by the petitioner instead of allowing the same.

o) In any event the order of the 2<sup>nd</sup> respondent is unsustainable in law and facts and hence, the same is liable to be set aside.

**7. This Court vide its order dated 07.11.2019 granted the following order:**

"Heard learned counsel for the petitioner and learned counsel for the 5<sup>th</sup> respondent.

Having regard to the facts of this case, status-quo obtaining as on today shall be maintained by the parties."

The said status quo orders are in force as on date.

**8. The 5<sup>th</sup> respondent filed vacate stay petition along with counter affidavit. The relevant paras 10, 11 and 12 of the counter affidavit read as under:**

"10. It is further submitted that, the claim of the writ Petitioner was not established by filing valid and cogent evidence to show that the writ Petitioner father purchased the said subject land on his name i.e. the sale deed. It is relevant to mention here that, if the sale is existing as claimed, he would have produced the document before the appellate authority as well as revisional authority. In two occasions the observations of the appellate authority, RoR proceedings of the Tahsildar there is no such material and nowhere it is mentioned neither the writ Petitioner nor his father was in possession of the subject land at any point of time.

11. It is respectfully submitted that, for the validation of the simple sale deed under RoR Act the possession of the subject land should be with the purchaser, then only

he is eligible for making an application for validation of the simple sale deed. But in the instant case the writ Petitioner claiming the subject land was purchased by his late father Akula Gopal, but he did not choose to produce the alleged simple sale deed and thereby producing different dates of certificates issued by the school, voters list and etc. As such, the appellate authority as well as revisional authority expressed there is a cloud over the purchasing of the land of the this Respondent by the writ Petitioner or his father and there is no notice in the RoR proceedings issued to this Respondent nor recorded his statement and there is no proof in collecting of stamp duty for issuing 13-B Certificate. In the absence of all these materials, issuing of PPB&TD to the writ Petitioner was found fault by the appellate authority as well as revisional authority.

12. It is respectfully submitted that, on observing the above circumstances, it is crystal clear that the writ Petitioner played fraud and obtained the validation proceedings and obtained the PPB&TD. It is relevant to mention here that, both the authorities found that name of the father of this Respondent is reflecting in the revenue records and thereafter name of this Respondent was shown in the possession column. As such, the claim made by the writ Petitioner is disproved. As such, the order under challenge is rightly passed with reasoning and it does not invite any interference from this Hon'ble court.

## **DISCUSSION AND CONCLUSION**

9. A bare perusal of the impugned order dated 21.01.2015 of the 3<sup>rd</sup> respondent indicate that in an appeal preferred by the 5<sup>th</sup> respondent after lapse of 12 ½ years of passing of the orders by the Mandal Revenue Officer, Manthani dated 07.06.1999 in favour of the petitioner mutating the name of the petitioner in the revenue records as pattadar after conducting due enquiry vide ROR file No.MNT/94/98, dated 07.06.1999 and after having had issued pattadar passbook and title deed to the petitioner in respect of the said subject land i.e. land to an extent of Ac.2.34 guntas in Survey No.611/B situated at Manthani Village and Mandal, Peddapalli District, the 3<sup>rd</sup> respondent entertained the said appeal preferred by the 5<sup>th</sup> respondent and passed impugned order dated 21.01.2015 vide file No.A/437/2012.

10. A bare perusal of paragraph 4 of the order impugned dated 21.01.2015 vide file No.A.437/2012 of the 3<sup>rd</sup> respondent clearly indicates that the order impugned dated 21.01.2015 had been passed on presumptions without any valid reasons stating that purchase of land by the petitioner or

his father is not evident on perusal of record and therefore, it can be presumed that if really father of the petitioner purchased the disputed land in the name of the petitioner, the name of the father of the petitioner would not have been mentioned. Therefore, the 2<sup>nd</sup> respondent had committed an error in issuing ROR pattadar passbooks and title deeds in the name of the petitioner. The 3<sup>rd</sup> respondent further not only cancelled the ROR proceedings No.MNT/94/98, dated 07.06.1999 issued by the 2<sup>nd</sup> respondent in favour of the petitioner but also specifically directed to rectify the entries accordingly.

11. A bare perusal of the orders impugned dated 04.05.2019 passed by the 2<sup>nd</sup> respondent herein in a revision petition filed by the petitioner under Section 9 of the A.P. Rights in Land and Pattadar Pass Book Act, 1971 which had been preferred by the petitioner, aggrieved against the order passed by the 2<sup>nd</sup> respondent vide proceedings No.A/437/2012, dated 21.01.2015 in respect of Survey No.611/B to an extent of Ac.2.34 guntas situated at Manthani Village and Mandal indicates that it is specifically contended by the petitioner that the validation of sale was issued by the

Mandal Revenue Officer, Manthani in ROR vile No.MNT/94/98 dated 06.06.1999 and the appeal was filed by the 5<sup>th</sup> respondent on 09.04.2012 after lapse of 12 ½ years, and the 2<sup>nd</sup> respondent has mechanically rejected the revision filed by the petitioner without assigning any reasons on the ground that the petitioner failed to putforth any evidence in support of the petitioner's case and that the petitioner failed to produce any documentary evidence evidencing the fact that the petitioner's father had been in enjoyment of the subject land from the date of purchase.

**12. This Court, on perusal of the order impugned dated 21.01.2015 vide file No.A/437/2012 passed by the 3<sup>rd</sup> respondent herein and also the order impugned dated 04.05.2019 passed vide file No.D1/433/2017 of the 2<sup>nd</sup> respondent, is of the firm opinion that the said two orders passed by the 3<sup>rd</sup> respondent and the 2<sup>nd</sup> respondent respectively are without any application of mind and without any valid reasoning. The 3<sup>rd</sup> respondent entertained an appeal filed by the 5<sup>th</sup> respondent after a period of 12 and ½ years and the fact as borne on record that the Mandal Revenue**



Officer, Manthani had issued the validation of sale in favour of the petitioner vide ROR vile No.MNT/94/98, dated 07.06.1999 had been totally ignored by the 2<sup>nd</sup> and 3<sup>rd</sup> respondents herein. This Court opines that the issuance of pattadar passbook and title deed is a consequential act and entries in PPB/TD are mere reflection of pattadar entries of 1-B register. Mere filing of appeal against issuance of pattedar passbook which is only a copy of 1-B Register is not an efficacious remedy under the scheme or the Act. This Court is of the firm opinion that the subject issue in the present writ petition is squarely covered by the judgment dated 24.07.2015 of the Division Bench of this Court reported in 2015 (6) ALD 609 passed in W.P.No.21689 of 1999 in Ratnamma v Revenue Divisional Officer, Dharmavaram, Anantapur District and others and in the said case the issue which came up for consideration before the Division Bench of High Court at Hyderabad is maintainability of an appeal against issuance of PPB/TD under Section 6-A of the Act. The relevant portion of

**the said judgment dated 24.07.2015 passed in W.P.No.21689 of 1999 reads as under:**

“From a bare reading of Section 5(5) of the Act, it can be held that against every order of recording authority either making an amendment in the record of rights or refusing to make such an amendment, an appeal to the RDO, is provided within the time stipulated in the Section. Under the Act, making an amendment in the record of rights or refusing to make amendment in record of rights is a crucial stage and a substantive decision rendered by the recording authority. Therefore, right of appeal is provided against such decisions. Likewise, from the reading of Section 5(5) of the Act, it cannot be construed that Section 5(5) provides remedy of appeal against orders under Section 6-A of the Act. Issuance of PPB/TD or making entries therein is always a step consequential to the record of rights prepared. Therefore the plain reading of Section 5(5) makes it clear that appeal against order under Section 6-A is not maintainable.

For the above view, we are supported by the decision reported in **M.B.Ratnam’s** case (2 supra). The relevant para reads as follows:

“It is thus clear that Section 5-A of the R.O.R. Act is a special and composite provision, which provides for regularisation of alienation or other transfers of land under unregistered instruments. Its area of operation is totally different from that of the area of operation of Section 5 of the R.O.R. Act, which essentially deals with amendment and

updating of record of rights on the strength of acquisition of any right referred to in Section 4 of the R.O.R. Act. Making of an entry in the pass book on the strength of the certificate issued under Section 5-A (4) cannot be equated to that of amendment and updating of Record of Rights as provided for under

Section 5(1) of the R.O.R. Act. An appeal under Section 5 (5) is provided only as against making amendment or refusing to make amendment in the record of rights under Section 5(1) of the Act. Therefore, no appeal as against a consequential decision of the recording authority under Sub-section (5) of Section 5-A is provided for under Sub-section (5) of Section 5, which in turn provides for an appeal against the act of amending and updating of record of rights."

(emphasis added)

It is well settled that the right of appeal must find its source in legislative authority. The right of appeal accrues to the litigant when it is expressly provided for in the statute and axiomatic that the right of appeal is a substantive right and must be conferred by a statute. As already held, appeal is provided for against the original proceedings or substantive determination under Sections 4, 5 and 5-A of the Act. The Legislature in its wisdom and noticing the purpose of issuing PPB/TD did not provide right of appeal against mere issuance of PPB/TD under Section 6-A of the Act. Therefore, on the literal construction of Sections 3 to 6-A of the Act, it can be held that the remedy of appeal under Section 5(5) of the Act is not provided against the issuance of PPB/TD under Section 6-A of the Act. By treating the action under Sections 5 and 6-A of the Act as single or

mutually dependent, in our considered view, the remedy of appeal against mere issuance of PPB/TD under Section 6-A of the Act is not available.

For the above reasons, we are not in agreement with the view expressed in **N.Bal Reddy's** case and is overruled. The point is answered accordingly.

In the fact situation of the present case the appeal filed in Rc.No.(B)154/1999 is not maintainable against the issuance of PPB/TD to petitioner and accordingly held as not maintainable. As already observed, this Court has not examined the rival claims of parties on merits and the findings are limited to the extent of deciding the maintainability of appeal under Section 6-A of the Act in Rc.No.(B)154/1999. The 3<sup>rd</sup> respondent is at liberty to pursue other available remedies under the Act or common law remedy, if the circumstances so warrant.

Writ petition is allowed. No order as to costs."

**12. Taking into consideration the view taken by the Division Bench of High Court at Hyderabad in the aforesaid Judgment (referred to and extracted above), in identical circumstances in the fact situation of the present case, the appeal filed by the 5<sup>th</sup> respondent in File No./437/2012 before the 3<sup>rd</sup> respondent itself is not maintainable against the issuance of PPB/TD to**

petitioner and accordingly held as not maintainable. This Court has not examined the rival claims of parties on merits and the findings are limited to the extent of deciding the maintainability of appeal under Section 6-A of the Act vide File No.A/437/2012. The 5<sup>th</sup> respondent is at liberty to pursue other available remedies under the Act or common law remedy if the circumstance so warrant.

14. In the result, the writ petition is allowed as prayed for and the order dated 04.05.2019 in File No.A1/433/2017 passed by the 2<sup>nd</sup> respondent and order dated 21.01.2015 vide Proc.No.A/437/2012 passed by the 3<sup>rd</sup> respondent are quashed.

Miscellaneous petitions, if any, pending shall stand closed. However, there shall be no order as to costs.

---

**SUREPALLI NANDA, J**

Dated: 29.01.2024

Note: L.R. copy to be marked

b/o

kvrn