

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.7154 OF 2023

Between:

Uddaraju Suresh Kumar

... **Petitioner**

And

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?

SUREPALLI NANDA, J

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P.No.7154 OF 2023****% 03.06.2024****Between:**

Uddaraju Suresh Kumar

... **Petitioner****And**

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... **Respondents**

< Gist:

> Head Note:

! Counsel for the Petitioner : Ms. K.Kalyani**^ Counsel for Respondents** :GP for revenue for R1 to 6.
Mr.Rajagopallavan Tayi for R7
Mr P.Srinivas for R8 and 10
Mr. K.V.Raman for R11

? Cases Referred:

- (1) 2005(2) A.P.L.J 306 (HC)
- (2) (1924) 1 K.B.171 by Atkin L.J.
- (3) (2017) SCC Online Hyd 426)
- (4) 2021 SCC Online SC 3422

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P. No.7154 OF 2023****ORDER:**

Heard Ms. K.Kalyani, learned counsel appearing on behalf of the petitioner, learned Government Pleader for Revenue appearing on behalf of respondent Nos. 1 to 6, Mr. Mr.Rajagopallavan, Mr P.Srinivas, learned counsel appearing on behalf of respondent No.7, learned counsel appearing on behalf of respondent Nos.8 and 10, and Mr. K.V.Raman, learned counsel appearing on behalf of respondent No.11.

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

".....to issue appropriate writ, order or direction, particularly a writ of PROHIBITION restraining respondent no.3 from proceeding any further in review petition proceedings i.e., Rc.No.A2/1234/2019 in case No.A2/1500/2018 filed by the respondent No.7 herein purportedly U/sec.166 of Telangana Revenue Act, 1317 Fasli pending before it OR IN THE ALTERNATIVE this Hon'ble court may be pleased to issue appropriate writ, order or direction, particularly a writ of MANDAMUS declaring the proceedings in review petition proceedings i.e., Rc.No.A2/1234/2019 in case

No.A2/1500/2018 filed by the respondent No.7 herein purportedly U/sec.166 of Telangana Revenue Act, 1317 Fasli pending before respondent no.3 as without jurisdiction, illegal, contrary to T.S. Land Revenue Act, Survey and Boundaries Act, Violative of Article 14,21 & 300-A of the Constitution of India and issue consequential direction forbearing respondent No.3 from proceeding further in the matter and pass such other order or orders.....”

PERUSED THE RECORD

3. The case of the Petitioner in brief as per the averments made by the petitioner in the affidavit filed by the petitioner in support of the present Writ Petition, is as follows:

a) The Petitioner is the absolute owner and possessor of land admeasuring 3381.33 sq.yards and petitioner’s brother i.e., respondent No.11 is absolute owner of 3399.99 sq.yards in Sy.No.108 of Moosapet (Village) Kukatpally (Mandal), Ranga Reddy District. Thus, the petitioner and respondent No.11 are the owners of land to an extent of 6781.32 sq.yards. The petitioner’s brother (the 11th respondent) and petitioner executed a development agreement cum GPA in favour of

respondent No.8 on 16.08.2012 and 14.08.2012 in respect of land admeasuring 6781.32 sq.yards.

b) It is the specific case of the petitioner that after the petitioner and respondent No.11 gave subject property for development and since work had commenced at the subject land site, respondent No.7 along with his other family members i.e., respondent Nos. 12 to 19 have been troubling the petitioner and petitioner's brother i.e., respondent No.11 initiating one proceeding or the other before various authorities. Respondent no.7 along with their family members claimed to be the owner of the land to an extent of Ac. 1.36 gts in Sy.No.1011/10 of Kukatpally (village). In fact, they have no title over the subject land and their part of land have already been converted to villas and sold to third parties.

c) Respondent Nos. 7 and 16 herein and their other family members filed a complaint before the Lokayukta which was taken on file as case.No.1324/2015 on 29.04.2015. In the said complaint, Lokayukta directed the Deputy Commissioner, GHMC Circle-14, Kukatpally to conduct enquiry regarding location of structures made under permit, dated 14.10.2014 and if it comes within the boundary of Sy.No.108 or Moosapet (village) or Sy.No.1011/2010

of Kukatpally village to file a report to that effect. On 23.06.2015, the Lokayukta passed an order holding that investigation is to be done by the concerned GHMC or Revenue officials to ascertain under what circumstances the permission for constructions were granted and to enquire into allegations pertaining to adjoining land bearing No.1011/10 of Kukatpally village. Therefore, through orders dated 23.06.2015, respondent No.5 was directed to conduct full-fledged survey.

d) Subsequently, petitioner filed W.P.No.19919 of 2015 and the said Writ Petition was disposed of on 08.10.2015 directing the registry to forward a report submitted by respondent No.4, dated 25.07.2015 along with a memo, dated 29.07.2015 to the Lokayukta allowing the petitioner to file an appropriate application before the Lokayukta permitting the petitioner to carry on the construction outside FTL and Buffer Zone area for a period of three months and that the petitioner shall seek further orders from the Lokayukta and the report, dated 25.07.2015 prepared by respondent No.4 was submitted before the Lokayukta and orders dated 01.03.2016 were passed stating that petitioner shall not make any constructions within FTL i.e., 9 guntas in Sy.No.108 of Moosapet Village and

accordingly, liberty was granted to proceed with construction in the remaining part of the land.

e) Thereafter, Respondent No.7 made an application to the Minister of Transport TS, Hyderabad for the demarcation of land in Sy.No.1011/10 at Kukatpally as against report submitted by respondent No.5 before the Lokayukta and High Court and the said application of the 7th respondent was forwarded to the 4th respondent to settle the matter. On the said representation, the Regional Joint Director, Survey conducted detailed enquiry and confirmed the proceedings of respondent No.5. However, the Respondent No.7 again made representation to the Minister for Transport, and the matter was referred to the 2nd respondent herein. While said proceedings were pending to be decided, the Inspector of Survey, Survey and Land Records, Medchel-Malkajgiri district, who has no jurisdiction or authority with the approval of respondent No.3, issued notice Rc.No.A2/1500/2018, dated 02.11.2018 fixing the date for hearing before respondent No.3.

f) It is specific case of the petitioner that respondent no.3 does not have any jurisdiction to proceed with the said appeal and the notice, dated 02.11.2018 does not show as to the person who had

filed an appeal before respondent No.3 and if so under what provision. The Respondent No.5 conducted survey under the orders of Lokayukta and High Court, which was accepted by High Court and Lokayukta and appropriate orders were passed.

g) It is specific case of the petitioner, that there is no power vested with respondent no.3 to take up an appeal and to take up the review under Section 166 of Telangana State Revenue Act. In the said appeal, there are 17 respondents and the petitioner was arrayed as respondent No.8 and petitioner's brother was arrayed as respondent No.9. After dismissal of the appeal on 12.07.2019, respondent No.7 filed a review petition, and the same is pending. Being aggrieved by the non disposal of the review, the respondent No.7 filed W.P.No.36224 of 2022 and the said Writ Petition was disposed of directing respondent No.3 to consider the review on merits. The entire proceedings before respondent No.3 are without jurisdiction and are affecting the petitioner's rights.

h) Upon knowing the orders passed in W.P.No.36224 of 2022, the petitioner filed review petition vide I.A.No.3 of 2023 in W.P.No.36224 of 2022, which was disposed of by this Court on 03.03.2023 directing respondent No.3 to defer the orders in the

review, for a period of two weeks, to enable the petitioner to take appropriate steps and participate in the proceedings before respondent No.3. However, aggrieved by the 3rd respondent in proceeding in the review petition proceedings i.e., R.C.No.A2/1234/2019 without jurisdiction, the present writ petition is filed.

4. The counter affidavit has been filed on behalf of respondent No.7 and in particular, para Nos.10 to 14 read as under:-

10. In reply to para 3 of the writ affidavit, a representation was made by this respondent before the 3rd respondent and the 3rd respondent issued notices to all the concerned fixing the date of enquiry as 2-11-2008. The 3rd respondent performed his duties within his jurisdiction. The representation of this respondent was taken as appeal. Mere non mentioning of the provision does not entail the 3rd respondent to proceed with the adjudication, under relevant provision of law. It is false to say that no appeal lies either before the District Collector or Joint Collector against the proceedings of the respondent No 4. In fact the respondent No.4 submitted a report and the same is not challenged. In fact a fresh representation was made by this respondent for clear demarcation of the land in Sy. No 108 of Moosapet

village and Sy. No 1011/10 of Kukatpally village. It is false to say that the report submitted before the Hon'ble Loka Yukta was accepted. It is false to say that no power vested to the respondent No 3 to take appeal and take up review under Sec 166 of Telangana Revenue Act It is false to say that the entire place is filled up with construction. This respondent never intends to grab the property. **As there is overlapping of village survey numbers,** the petitioner encroached the land belonging to this respondent and taking advantage of the same.

11. In reply to para 4 of the writ affidavit, it is false to say that the respondents No 2 & 3 started to re-assess the report submitted. In fact this respondent never challenged the report submitted before the Hon'ble High Court or Loka Youkta as stated by the petitioner. The order dt. 8-10-2015 passed in WP. No 19919/2015 in this Hon'ble Court never affirmed that the survey report was accepted. This Hon'ble court forwarded the survey report to Loka Yukta only. In fact this Hon'ble court has left all the contentions of the parties open. Hence this respondent raised contention before the 3rd respondent is which a proper forum. Even in the order of the Lokayukta, it never gave a finding with regard to the demarcation and boundaries of survey numbers 108 of Moosapet village and survey No. 1011/10 of Kukatpally village and demarcating as per survey report. The Hon'ble Lokayukta categorically stated that, dispute is between the

two private parties and it cannot be a subject matter of any investigation by this institution. In that scenario the application made by this respondent is valid and the 3rd respondent has jurisdiction to entertain the same.

12. The survey report is not clear with regard to overlapping boundaries of Moosapet village and Kukatpally village. Hence this respondent has filed application seeking for demarcation and the same is maintainable.

This respondent submits that the petitioner participated in the appeal proceedings and he is subjected himself, to the jurisdiction of the 3rd respondent by filing a counter. The orders were passed in appeal on 12-7-2019 and the said orders were accepted by the petitioner. This respondent filed a review before 3rd respondent in the year 2019 itself and the same was numbered as A2/1234/2019. The notices were also issued to the petitioner and others in the year 2020 itself for appearances. The enquiry notice also served on the petitioner in 2020 itself. This petitioner having kept quiet for more than (2) years now filed the present writ petition which is illegal and not maintainable.

13. This respondent submits that the petitioner along with his brother i,e respondent No. 11 even appeared before the 3rd respondent though their counsel and submitted arguments. Not only that the builder i.e respondents No. 8 to 10 also appeared on behalf of the petitioner and respondent No. 11 filed written arguments also. Having heard all the parties, the

3rd respondent reserved the review. At that juncture this petitioner filed the present writ petition only to drag the proceedings.

14. This respondent submits that if the petitioner feels that the 3rd respondent has no jurisdiction ought not to have subjected himself to the 3rd respondent in appeal proceedings and also in the review proceedings initiated at the behest of this respondent. Having subjected himself to the 3rd respondent's jurisdiction, now cannot go back alleging that the 3rd respondent has no jurisdiction and he is prohibited from proceeding further. Therefore, the writ petition filed by the petitioner is bad in law. No prejudice will be caused to the petitioner if the review is adjudicated on merits. The writ petition is filed for prohibition. The 3rd respondent has jurisdiction to entertain the same. Therefore, the writ petition is not maintainable and hence needs to be dismissed. Hence the writ petition is liable to be dismissed.

5. The reply affidavit has been filed by the petitioner denying the averments in the counter affidavit filed on behalf of respondent No.7.

6. The unofficial respondent No.7 did not file any counter affidavit in the matter.

PERUSED THE RECORD:**7. This Court on 17.03.2023 granted interim orders observing as under:-**

Issue notice to respondent Nos.8 to 10, 12 to 19.

Personal notice is permitted.

List on 21.03.2023.

Till then, there shall be stay of all further proceedings in RC.No.A2/1234/2019 in Case No.A2/1500/2018 pending before the 3rd respondent filed by 7th respondent for a period of 10 days from today.

DISCUSSION AND CONCLUSION:**8. The 7th respondent had filed appeal vide Rc.No.A2/1500/2018, in November 2018, before the then Joint Collector, Medchal-Malkajgiri District at Keesara with prayer as under:-**

“under the above said circumstances that this Hon’ble Authority may be pleased to direct the respondent authorities to implement the survey conducted by the 2nd respondent dated 22.09.1988 along with the map as demarcated the boundaries for Kukatpally Village which was not set aside by any of the authorities and is available on record and prevails over the present survey dated 25.07.2015 which is exclusively to favour to the construction of respondents from

outside the FTL area and to further hold to "Overlapping" case as illegal, unjust and contrary to the law and pass such other order or orders as deemed fit and proper in the circumstances of the case."

9. The last paragraph of the proceedings, dated 12.07.2019 in case No.A2/1500/2018 of the Joint Collector, Malkajgiri- Medchel District at Keesara, is extracted hereunder:

"The proposal of the Respondent No.1 to treat it boundary dispute between Sy.No. 108 of Moosapet village and Sy. No. 1011/10 of Kukatpally village u/s 87,90 & 91 of Telangana Land Revenue Act 1317 fasli is not worth considering for the reason that the land in Sy.No. 108 of Moosapet village is patta land with detailed surveyed measurements and whereas Sy.No.1011/10 of Kukatpally village is a gut Sy.No which does not have detailed surveyed measurements and therefore its extent as noted in the sethwar is approximate and it may be either less or more on ground. Therefore irrespective of the date of revision survey of the villages, Sy.No. 108 of Moosapet village with an extent of Ac. 8.26 gts will prevail over Sy.No. 1011/10 of Kukatpally village."

A bare perusal of the record indicates that a Review had been preferred by the 7th respondent under Section 166 of the Telangana

Land Revenue Act, 1317 Fasli before the 3rd respondent with prayer as under:

“10. In the light of the above facts which have come to the notice of the petitioner recently, and other grounds to be urged at the time of hearing, it is prayed that

(a) the impugned order of the Joint Collector Medchal Malkajgiri District dated 12-07-2019 passed in file No A2/1500/2018 may please be recalled immediately;

(b) the matter decided afresh duly getting factual information from higher authorities and calling for the supplementary sethwar issued in 1964 in file No G/914/63 of the then Asst Director Survey and land records;

(c) And pass such other further order or orders as the authority deems fit and proper to meet the ends of justice.”

10. The said Review had been entertained by the 3rd respondent and the petitioner along with his brother/respondent No.11 appeared before the 3rd respondent through their counsel and submitted the arguments, respondent Nos. 8 to 10 also appeared and respondent No.11 filed written arguments and also, respondent No.3 reserved the review and at that stage, the present Writ Petition has been filed.

11. The counter affidavit filed by the 7th respondent indicates a stand that the petitioner subjected himself to the 3rd respondent in the appeal proceedings and also the review proceedings and the review had been reserved for pronouncement of judgment and at that stage, the petitioner approached this Court by filing the present Writ Petition stating that the 3rd respondent has no power to entertain the review and hence the writ petition needs to be dismissed.

12. Section 166 of the Telangana Land Revenue Act, 1317

Fasli, reads as under:-

166. Review.

(1) Every Revenue officer may, either himself or on the application of any party when the application is accompanied by the original order or decision or by an authentic copy of such order or decision against which the review is desired, review the order or decision passed by him or his predecessor and make such order as he may deem fit:

13. It is borne on record that the petitioner appeared before the 3rd respondent in the appeal as well as the review and also filed his written arguments and also made his submissions through his counsel before the 3rd respondent

and when the matter is reserved, the petitioner approached this Court by filing present Writ Petition.

14. The petitioner except stating that the 3rd respondent has no jurisdiction to entertain the proceedings under Section 166 of the Telangana Land Revenue Act, 1317 Fasli has failed to explain, how the said contention is put forth in the affidavit filed in support of the present Writ Petition nor is in a position to explain to this Court.

15. Circular instructions of the Government of Andhra Pradesh, CCLA & Special CS, vide Rc.No.S1/1093/2011 (CSSLR), dated 18.05.2011, read as under:-

"1. Certain instances of misinterpretation/misuse of powers under sections 87 and 90 of AP (Telangana Area) Land Revenue Act, 1317 F have come to the notice of the CCLA. In the reference 2nd cited, Govt withdrew powers under section 87 of the Act from the DROs and conferred the same on Joint Collectors. Certain judicial pronouncements relating to section 87 of the Act have also necessitated review of previous instructions on the subject. Hence, the following instructions are issued for strict compliance by all concerned.

2. Section 87 of AP (TA) LR Act reads as follows:

SECTION 87: Settlement officer to correct clerical and other errors admitted by all parties and application for correction of name to be made within two years: -

The Director of Settlements and on making over the settlement records to the Collector, the Collector may, at any time, correct or cause to be corrected any clerical error or errors admitted by the party concerned.

The aforesaid officer shall hear all applications made within two years after the introduction of the settlement, for the correction of any wrong entry of a pattadar's name in the register referred to in the preceding section and if satisfied about the error, whether such error has been made through negligence, fraud or collusion shall correct the same, notwithstanding that the party concerned does not admit the error, but no such application shall be entertained after two years, unless reasonable cause is shown to the said officer for the delay, and in such cases if any error is proved it shall not be corrected without obtaining the sanction of the Government,

3. A plain reading of section 87 reveals that the Collector is competent to correct "clerical errors" in undisputed cases at any time. This section does not confer any power to disturb title or possession. Nor does it confer any power to hand over Govt land to private parties in the name of correction of error. Disputes over title and possession have to be settled by Civil

Court. Collector can correct wrong entry of pattadar's name only after obtaining the sanction of Government. In G. O. Ms. No. 544 Revenue(R) Dept dt 15-5-1976, Govt delegated powers under section 87 to the Settlement Commissioner. In proceedings No. 11/1151/1999, dt 24-2-1999, the CCLA delegated the powers under section 87 to the CSSLR

4. In *Khairuddin Ali vs State of AP*, the Hon'ble AP High Court held that the power of Govt (Commissioner of Settlements) u/s 87 is confined to sanction correction of pattedar name only. The power of the Commissioner, Survey, Settlements & Land Records under section 87 of the AP (TA) LR Act, 1317 F, however, does not include the power to treat govt land as patta land because Govt is not a pattedar as observed by the Hon'ble AP High Court in *Kasani Gnaneswar vs State of AP and others*. In a case involving swapping of extents of two survey numbers in Medchal village of RR dist, a division bench of the Hon'ble AP High Court held that revenue officers are not competent to correct errors where there is a dispute on title or possession and that the parties have to approach the appropriate forum for relief (Writ Appeal No. 753 of 2002 between *L. Veera Narahari and others vs L. Jagannadham and others*). It is clear from the above that section 87 covers only two categories of error, viz., clerical errors and correction of wrong entry of pattedar's name.

5. Clerical errors are defined as minor errors which do not involve alteration in art change of classification or change of

name of pattadar. Since change of boundary result in alteration of area, such change cannot be treated as a mere correction of clerical error. A few examples of clerical errors as given in the circular are as follows:

- a) Name of pattadar mis-spelt
- b) Interchange of survey numbers not involving disputes over title or possession.
- c) Survey number missing in the map
- d) Area is calculated wrongly though measurements on ground and records support the correct area.
- e) plotting errors in map except those relating to *udafa* survey numbers.

The above clerical errors are illustrated with examples in the annexure to this circular. All errors of omission and commission which are not clerical errors shall be treated as cases of wrong entry of pattadar's name. However, government land cannot be converted as patta land in the name of correction of wrong entry of pattadar's name. If any doubt arises whether a particular error is a clerical, the error or not, the orders of the CSSLR should be obtained.

6. Procedural aspects

- a) In all the cases of correction under section 87, quasi judicial enquiry has to be conducted by the Joint Collector, condonation of delay should be done only if cogent and valid reasons are shown. The criteria adopted for condonation should be the same as are applicable in a court of law. Notice and adequate opportunity should be

given to all the affected parties both at the time of survey and also during the hearing. The whole exercise should be done in an open and transparent manner. The statement of the VRO should be recorded. Wherever necessary, the Tahsildar or the Forest Dept or the local body concerned, as the case may be, should also be heard.

b) After conducting inquiry in cases relating to correction of pattadar's name, detailed report together with necessary supporting sketches should be submitted to Commissioner Survey Settlement & Land Records for final approval. Only after receipt of orders from the Commissioner, further action should be taken.

7. Village boundary disputes should not be dealt with under section 87 as sections 90 and 91 of AP (TA) LR Act, 1317 F provide for resolution of such disputes.

8. Section 90 of AP (TA) LR Act, 1317 F, reads as follows:

Section 90: Determination of village boundaries: The Collector or any other officer nominated by the Government for this purpose, or the Settlement Commissioner, if survey operations are proceeding in the village shall enquire about and fix the boundaries of villages and determine disputes, if any, relating thereto.

When the Patels and Patwaris of any two or more adjoining village agree to any given line of boundary and such agreement is not illegal, the officer determining the boundary

shall require the said parties to execute an agreement to that effect and shall mark off the boundary accordingly.

9. Section 91 of AP (TA) LR Act reads as follows:

Section 91: Procedure in case of disagreement or dispute: If the parties do not agree in the manner prescribed in the last proceeding section, the said officer shall, after necessary inquiry, make a plan showing the area of the ground in dispute together with the boundaries or marks, existing or which may be stated, in different colours, and shall, after completing the inquiry, make an award in the case.

10. As per delegation of powers ordered by the Govt in G.O.Ms No. 563 Revenue (W) dept dt 22-5-1985 under section 3 of AP District Collector's Powers (Delegation) Act, 1961, DRO is competent to exercise powers under sections 90 and 91 of AP (TA) LR Act.

11. Cases of village boundary disputes where there is no disagreement among Village Revenue Officers should be dealt with under section 90 duly recording the agreement of the Village Revenue Officers. Cases where there is disagreement among Village Revenue Officers should be dealt with under section 91 by conducting an enquiry and making an award. In both section 90 and section 91, the term "parties" refers to VROs only and not to private parties.

12. Due to the fact that traverse survey was not done for the village boundaries and also for **gut** survey numbers having extents of more than Ac. 100 (mostly Government waste lands or Poramboke lands), the following two types of survey errors occurred in a few cases.

1. Overlapping of the two adjoining village boundaries at some place i.e., same piece of land is included in two villages. Sometimes, the same land is treated as patta land in records of one village and as Government land in the records of the adjoining village. This type of errors should be dealt with under sections 90 and 91, as the case may be, of AP(TA) LR Act.

2. In some cases there is an unsurveyed gap area between villages i.e., portion of land was left out during survey and was not accounted for in either of the villages. These cases shall be treated as wrong entry of pattadar's name. In such cases, the Assistant Director should do spot inspection, and prepare discrepancy sketches with measurements and put up the file to Joint Collector. The JC shall conduct necessary quasi judicial enquiry, record statements from the concerned pattadars, VROs etc and submit a detailed report to the Commissioner Survey Settlement & Land Records. After receipt of orders from the Commissioner Survey Settlement & Land Records, necessary corrections

should be carried out in the records of Central Survey Office as well as village records.

12. Unsurveyed gap areas not covered by the Sethwar should be treated as *bila dakkala* government lands as per section 24 of AP (TA) LR Act. They may be given survey numbers in continuation of the last survey number of the village. If ORCs have been issued in respect of such lands, necessary appeal should be filed before, the appropriate authority. If PPBs and TDs have been issued in respect of such lands, the same may be cancelled by initiating *suo moto* revision proceedings under AP Rights in Land and PPBs Act, 1971. Wherever necessary, suit should be filed for declaration of title of government and recovery of possession.

13. Review of old cases:

Collectors shall review all the cases of correction done during the last 5 years and submit detailed reports to the CSSLR in respect of cases falling in the following categories:

- a) Conversion of Govt lands into patta lands
- b) Increase of area of patta land at the expense of adjoining government land.

Upon receipt of reports from Collectors, the CSSLR shall examine each case in detail and propose appropriate remedial action.

14. These instructions supersede all the previous instructions on the subject which are inconsistent with these instructions. Non compliance with the provisions of this circular shall be

viewed very seriously and appropriate disciplinary or criminal action will be initiated depending on the gravity of misconduct.

15. Receipt of this circular shall be acknowledged forthwith. The acknowledgment should be accompanied by separate certificates signed by the Collector, JC and DRO that they have carefully read this circular and that the same has been kept in stock files.

16. A bare perusal of circular Rc.No.S1/1093/2011 (CSSLR), dated 18.05.2011 (referred to and extracted above) clearly indicates the procedure to be followed when there is a dispute pending to a village boundary.

17. The first and last paragraph of the Report forwarded by the Regional Deputy Director Survey and Land Records, Hyderabad addressed to the Commissioner Survey Settlements and Records T.S. Hyderabad Vide Lr.No.A5/192/2017, Dated 31.08.2018 is extracted hereunder:

"1. As seen from file of O/o Assistant Director, Survey & Land Records, the then Assistant Director, Survey & Land Records, RangaReddy District has already conducted the Spot inspection of Sy No.1011/10, situated at Kukatpally Village

and Sy No.108, situated at Moosapet Village along with his team as per the directions of the Hon'ble Lokayuktha on dated 26.03.2015 and submitted his report along with his findings on dated: - 25.07.2015.

14. As per the standing order of CCLA, the Over lapping cases shall be dealt with under the provisions of Sections of 90, 91, 92 of A.P.(T.A) LR Act 1317 Fasli; and also attracts U/ 87 for correction of Area/Survey error as per the Circular Rc No.S1/1093/2011 of (CSS&I.RS) dated 18.05.2011 of Chief Commissioner of Land Administration & Special Chief Secretary.

Therefore in view of the above submitted circumstances this case needs "Quasi Judicial enquiry" under Section 90, 91, 92 & 87 as per the present standing rules to settle the dispute prevailing on the ground between the parties."

18. In view of the fact that the issue pertains to a boundary dispute between Survey No.108 of Moosapet village and Survey No.1011/10 of Kukatpally Village under Sections 90 and 91 of Telangana Land Revenue Act 1317 Fasli, this Court opines that as per the circular dated 18.05.2011, vide R.C.No.S1/1093/2011 (CSSLR) the same cannot be dealt with by the 3rd respondent and 3rd respondent admittedly does not have jurisdiction to proceed with the same.

19. This Court opines that the contents of the order dated 12.07.2019 in Rc No.A2/15002018 of the Joint Collector, Malkajgiri-Medchal District at Keesara and the contents of the detailed Report vide Lr.No.A5/192/2017 dated 31.08.2018 of the Regional Deputy Director Survey and Land Records, Hyderabad (referred to and extracted above) clearly indicates that the subject issue is boundary dispute between Survey No.108 of Moosapet village and Survey No.1011/10 of Kukatpilly Village under Sections 90 and 91 of Telangana Land Revenue Act 1317 Fasli, and in view of the subject issue being village boundary dispute, as per Section 90 of Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli, the same has to be dealt with by the 2nd respondent herein even as per the contents of the circular, dated 18.05.2011, Rc.No.S1/1093/2011 (CSSLR).

20. This Court opines that the Judgments relied upon by the counsel for the respondents do not apply to the facts of the present case.

21. This Court opines that the plea of the 7th respondent that the petitioner having subjected himself to the 3rd respondent's jurisdiction in appeal proceedings and review proceedings initiated at the behest of the 7th respondent cannot turn back contending that the 3rd respondent has no jurisdiction and hence 3rd respondent is prohibited from proceeding further is not tenable, since this Court opines that the 3rd respondent exercised the power not conferred upon it under the relevant Rules and entertained and even proceeded with the hearing of the matter, the same is not permissible under law.

22. It is settled law when a statute describes or requires a thing to be done in a particular manner it should be done in that manner or not at all.

A) (M.Shankara Reddy Vs. Amara Ramakoteswara Rao reported in (2017) SCC Online Hyd 426).

B) The Division Bench of Apex Court in its judgment dated 04.10.2021 in Supertech Ltd., Vs. Emerald Court Owner Resident Welfare Association and Ors., reported in

2021 SCC Online SC 3422, referring to Taylor Vs. Taylor, 1875 (1) Ch D426, Nazir Ahmed Vs. King Emperor reported in (1936) L.R.63 Ind Ap372 and Parbhani Transport Co-operative Society Ltd., Vs. The Regional Transport Authority, Aurangabad & Ors., reported in AIR 1960 SC 801 at para 13 observed as under :

“It is that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden. Hence when a statute requires a particular thing to be done in a particular manner, it must be done in that manner or not at all and other methods of performance are necessarily forbidden. This Court too, as adopted this maxim. This rule provides that an expressly laid down mode of doing something necessarily implies a prohibition on doing it in any other way.

23. The principle enunciated in “Rex Vs. Electricity Commissioners” (1924) 1 K.B.171 by Atkin L.J. applies to this case. Atkin L.J. laid down the following test :

“..... wherever any body of persons having legal authority to determine questions affecting the rights of

the subjects and having the duty to act judicially act in excess of their legal authority, they are subject to the controlling jurisdiction of the Kings Bench Division exercised in these writs”.

24. The order of Division Bench of the Andhra Pradesh High Court in K. Gnaneshwar vs. State of AP and others reported in 2005(2) A.P.L.J 306 (HC), involving swapping of extents of two survey numbers in Medchal Village of Ranga Reddy District, held that revenue officers are not competent to correct errors where there is a dispute on title or possession and that the parties have to approach the appropriate forum for relief and in its Head note, it is observed as under:

“The Director of Settlements, before making over the settlement records to the Collector, and after making over the settlement records to the Collector, the Collector, can, at any time, correct any 'clerical error' or 'errors admitted by the party concerned', at any time. Those officers can, within two years of introduction of the settlement, correct any wrong entry of pattadars name in the registers, on an application, if they are satisfied that the error was due to negligence, fraud or in collusion. Delay beyond two years can be condoned, if it is satisfactorily explained, but the entry cannot be corrected without obtaining sanction from the Government. (Para 5).

Section 87 of the Act permits correction of entry relating to the 'names of the pattadars'. There can be a pattadar only for private lands, but not in respect of government lands. Deleting the name of the Government and incorporating the names of a private person, by no stretch of

imagination, would be correction of an entry relating to the name of a pattadar, because 'pattadar' is defined in Section 2(11) of the Act as the person who is directly responsible to the Government for payment of land revenue and whose name has been entered as such in Government records whether he be personally in possession of the holding or through his Shikmidar. (Para 6)."

25. Taking into consideration:

(a) The circular No. Rc.No.S1/1093/2011 (CSSLR), dated 18.05.2011, in particular paras 7 to 12 of the said circular (referred to and extracted above),

(b) The Report of the Regional Deputy Director Survey and Land Records Hyderabad vide Lr.No.A5/192/2017 dated 31.08.2018,

(c) The proceedings case No.A2/1500/2018 of the Joint Collector, Medchel-Malkajgiri District at Keesara dated 12.07.2019 against which the 7th respondent had preferred review petition under Section 166 of Telanagana Land Revenue Act 1317 Fasli, which has been entertained by the 3rd respondent and heard and reserved by the 3rd respondent without jurisdiction,

(d) Duly considering the law laid down and the observations in the Judgments referred to and extracted above,

(e) Taking into consideration the interim orders dated 17.03.2023 passed in favour of the petitioner,

(f) Duly considering the averments and the clear admissions at para Nos.10 and 12 of the counter affidavit filed by the 7th respondent that there is overlapping of village survey numbers and in view of overlapping boundaries of Moosapet Village and Kukatpally Village, the 7th respondent had filed an application seeking for demarcation,

the writ petition is allowed as prayed for. However there shall be no order as to costs.

Miscellaneous petitions, if any pending, in this writ petition shall stand closed.

SUREPALLI NANDA, J

Date: 03.06.2024

Note : L.R. Copy to be marked.

B/o. Yvkr/Ktm