

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

**WEDNESDAY, THE FIFTH DAY OF JANUARY
TWO THOUSAND AND TWENTY TWO**

:PRESENT:

THE HONOURABLE SRI JUSTICE A V SSHA SAI



IA No. 1 OF 2021

IN

WP NO: 29332 OF 2021

Between:

1. B. Gurunatha Reddy, S/o B. Krishnavasu Reddy, aged about 42 years, Occ-Cultivation, R/o H. No. 1-33, Pagidirai Village, Thuggali Mandal, Kurnool District.
2. B. Maheswar Reddy, S/o B. Krishnavasu Reddy, aged about 38 years, Occ-Cultivation, R/o H. No. 1-33, Pagidirai Village, Thuggali Mandal, Kurnool District.

...Petitioners

AND

1. The State of Andhra Pradesh, Rep by it's Principal Secretary, Revenue Department, Secretariat, Velagapudi, Amaravathi.
2. The District Collector, Kurnool District.
3. The Joint Collector(Revenue), Kurnool District.
4. The Revenue Divisional Officer, Adoni Division, Kurnool District.
5. The Mandal Tahsildar, Yemmiganur Mandal, Kurnool District
6. Mr. B. Mohan Reddy, S/o B. Parameswara Reddy, Aged about 39 years, Occ-Cultivation, R/o H. No. 4-133, Rampalli Village, Thuggali Mandal, Kurnool District.
7. Smt. Kameswaramma, W/o Late B. Parameswar Reddy, House hold, R/o H. No. 4-133, Rampalli Village, Thuggali Mandal, Kurnool District.

...Respondents

Counsel for the Petitioner :SRI A CHANDRAIH NAIDU

Counsel for the Respondent Nos.1 to 5:GP FOR REVENUE

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to suspend the impugned order in R.c.e. 616/2019 dt. 08-10-2021 passed by the 4th respondent and consequential implementation of the said order in respect of the land an extent of Ac. 3.00 in sq. no. 399 of Gudikal Village, Yemmiganur Mandal, Kurnool District, pending disposal of WP No. 29332 of 2021, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case). The Court made the following;

ORDER:

"It is contended by the learned counsel for the petitioners that the petitioners' grandfather partitioned his properties, but retained the subject land of Ac.3.00 cents in Sy.No.399 of Gudikal Village, Yemmiganur Mandal, Kurnool District for himself and he gifted the said property to the petitioners' father Sri B.Krishnavasu Reddy, by way of registered gift deed dated 05.02.2011. The petitioners father Sri B.Krishnavasu Reddy, allotted Ac.1.50 cents each to the petitioners. It is further stated that the revenue authorities have also issued pattadar pass books and title deeds in the names of the petitioners for Ac.1.50 cents each. The 6th respondent herein and his sister, Smt.P.P.Lakshmi Devi instituted O.S.No.114 of 2013 on the file of the Court of the Senior Civil Judge, Adoni against the petitioners and their father for cancellation of the afore mentioned deed dated 05.02.2011 and the rectification deed dated 30.12.2011 and

B.Krishnavasu Reddy, passed away in the year 2016 and the plaintiffs in the afore mentioned suit filed an application in I.A.No.888 of 2019, seeking permission of the Court of the Senior Civil Judge, Adoni, to withdraw the said suit with a liberty to file fresh suit against the petitioners herein/defendants and vide order dated 17.09.2019, learned Senior Civil Judge permitted the unofficial respondents herein to withdraw the suit with a liberty as prayed.

It is further submitted by the learned counsel that instead of filing a fresh suit for which liberty was already sought, the 6th respondent herein made an application before the Revenue Divisional Officer for mutation of his name for Ac.1.50 cents and the Revenue Divisional Officer issued a notice of enquiry on the report of the Tahsildar and according to the petitioners, they appeared before the Revenue Divisional Officer and explained about the ground position, but the 4th respondent-Revenue Divisional Officer passed the impugned order dated 08.10.2021. It is submitted by the learned counsel that the impugned action on the part of the respondents herein cannot sustain in the eye of law having regard to the law laid down by the Division Bench of Composite High Court in the case of *Ratnamma vs The Revenue Divisional Officer and others*.

On the other hand, learned Government Pleader submits that in view of the provisions of Section 5B(2) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act') the order of the Revenue Divisional Officer cannot be faulted and the petitioners herein will have to exhaust the remedy of revision before the Joint Collector under the provisions of Section 9 of the Act. It is absolutely not in controversy that the impugned order came to be passed on 08.10.2021 and immediately thereafter, the consequential mutations were affected in favour of the 7th respondent without even giving sufficient time to the petitioners herein to avail the said remedy of revision, if any. This, in the considered opinion of this Court cannot be approved by this Court.

In view of the above reasons, there shall be interim suspension as prayed for."

Sd/- K. SRINIVASA RAJU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Revenue Department State of Andhra Pradesh, Secretariat, Velagapudi, Amaravathi.
2. The District Collector, Kurnool District.
3. The Joint Collector(Revenue), Kurnool District.
4. The Revenue Divisional Officer, Adoni Division, Kurnool District.
5. The MandalTahsildar, YemmiganurMandal, Kurnool District
6. Mr. B. Mohan Reddy, S/o B. Parameswara Reddy, R/o H. No. 4-133, Rampalli Village, ThuggaliMandal, Kurnool District.
7. Smt. Kameswaramma, W/o Late B. Parameswar Reddy, R/o H. No. 4-133, Rampalli Village, Thuggali Mandal, Kurnool District.(1 to 7 By RPAD)
8. One CC to Sri. A Chandraih Naidu, Advocate [OPUC]
9. Two CCs to GP for Revenue, High Court of Andhra Pradesh. [OUT]
10. One spare copy.

MSB

HIGH COURT

AVSS,J

DATED:05/01/2022

ORDER

POST AFTER FOUR (4) WEEKS

**IA NO.1 OF 2021
IN
WP.No.29332 of 2021**

INTERIM SUSPENSION

