



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3233]

FRIDAY, THE SEVENTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN

WRIT PETITION NO: 38090/2022

Between:

1. PUVVADA SRINIVAS, S/O. LAE BHASKARA RAO, AGED ABOUT 62 YEARS, R/O. D.NO. 41-12/A, KOTHA AGRAHARAM, VIZIANAGARAM DISTRICT.
2. PUWADA MADHUSUDHAN, S/O. LATE BHASKARA RAO, AGED ABOUT 60 YEARS, R/O. D.NO. 41-12/A, KOTHA AGRAHARAM, VIZIANAGARA-AM DISTRICT

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT, SECRETARIAT BUILDINGS, VELAGAPUDI, GUNTUR DISTRICT.
2. THE COMMISSIONER OF APPEALS, O/O THE CHIEF COMMISSIONER OF LAND ADMINISTRATION, MANGALAGIRI, GUNTUR DISTRICT.
3. THE JOINT COLLECTOR, VIZIANAGARAM DISTRICT.
4. THE TAHSILDAR, VIZIANAGARAM MANDAL, VIZIANAGARAM DISTRICT.

5. THE DISTRICT COLLECTOR, VIZIANAGARAM DISTRICT

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of CERTIORARI to quash the order of 2nd respondent issued vide Proceedings Assn.I(1)/292/2022 dt 28.10.2022, and consequently uphold the orders dt 29.10.2021 passed by the 3rd respondent vide Proceedings Rc.No.3192/2021/F2, and consequently direct the respondents to change the classification of the subject land admeasuring Ac.19.00 Cents in Sy.No. 180/1 of Vizianagaram Bit-II in the settlement register from Rallagutta/Poromboke to Ryotwari Dry and consequently allow the sale transactions to take place in respect of the subject land without reference to the provisions contained in section 22(A) of the Registration Act and pass

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the effect and operation of the order passed by the 2nd respondent vide Proceedings Assn.I(1)/292/2022 dt: 28.10.2022, pending disposal of the writ petition and pass

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to forthwith implement the orders dt: 29.10.2021 passed by the 3rd respondent/Joint Collector vide Proceedings Rc.No.3192/2021/F2, with regard to the change of the classification of the subject land admeasuring Ac.19.00 Cents in Sy.No.180/1 of Vizianagaram Bit-II from Rallagutta/Poromboke to Ryotwari D and consequently allow the sale transactions to take place in accordance with the law without reference to the provisions contained in Section 22(A) of the Registration Act, pending disposal of the writ petition and pass

Counsel for the Petitioner(S):

- 1.M/S BHARADWAJ ASSOCIATES

Counsel for the Respondent(S):

- 1.GP FOR REVENUE
- 2.THE ADVOCATE GENERAL

The Court made the following ORDER:

This writ petition was filed questioning the proceedings of the 2nd respondent dated 28.10.2022 in setting aside the proceedings of the 3rd respondent dated 29.10.2021.

2. Heard the learned senior counsel for the petitioners and the learned Special Government Pleader appearing for the respondents.

3. The learned counsel for the petitioners submits that the petitioners are the joint pattadars of the subject land in an extent of Ac.19.00 cents in Sy.No.180/1, T.D.No.951, Old Survey No.74 of Vizianagaram Bit-II, Vizianagaram Mandal and District. The subject land is covered by the provisions of The Andhra Pradesh (ANDHRA AREA) Inams (Abolition and Conversion into Ryotwari) Act, 1956, for short, 'the Act'. After the Inam enquiry under Section 3(iii) of the said Act, the predecessors in title namely P.Venkatapathi Raju and others were granted Ryotwari patta under Section 7 of the Act vide proceedings dated 13.12.1960 and the factum of the grant of pattas was subsequently reaffirmed in the proceedings of the 4th respondent/Tahsildar in the year 1979 from which the grant in favour of the petitioners' predecessors is reaffirmed. Suffice it to say that the petitioners are the successors in interest of the said grant and therefore they are entitled to describe themselves as "pattadars" of the subject land by succession.

While so the anomaly was crept in, even after the grant of patta in so far as the settlement register is concerned and the classification of the subject land was erroneously continued as Rallagutta/Poramboke instead of bringing the same in tune with the grant of patta and in such event, the classification of land should have been "Ryotwari Dry". In view of the incorrect classification shown in the settlement register, the subject land has been wrongly included in the list of prohibited properties under section 22(A) of the Registration Act under a misconception that the subject land is a government land. Since the petitioners suffered a serious injury and hardship on account of the above said illegal act / erroneous act, they applied to the District Collector(R5) and the Joint Collector(R3) to change the classification of the land by correcting it from Rallagutta/Poramboke to Ryotwari Dry. The said application was considered by the 3rd respondent/Joint Collector after giving an opportunity to the 4th respondent/Tahsildar and vide proceedings Rc.No.3192/2021/F2, dated 29.10.2021, the 3rd respondent/Joint Collector accepted the petitioners' claim and directed the 4th respondent/Tahsildar to change the classification in the settlement register in so far as the subject land is concerned with respect to its classification from Rallagutta/Poramboke to Ryotwari Dry.

The 4th respondent/Tahsildar without implementing the orders passed by the 3rd respondent/Joint Collector, has approached the 2nd respondent/Commissioner of Appeals (without mentioning any provision of law under which such an application is made) seeking setting aside of the proceedings of the 3rd respondent/Joint Collector. Then the 2nd respondent/Commissioner, by virtue of the impugned proceedings Assn.I(1)/292/2022, dated 28.10.2022 erroneously set aside the orders of the 3rd respondent/Joint Collector dated 29.10.2021.

4. On the other hand, the learned Special Government Pleader appearing for the respondents, relying upon the counter of the 5th respondent submits that as per the records in M.D.R., the land in Sy.No.180/1 in an extent of Ac.19.00 was classified as Rallagutta/Poramboke. It is a hill rock and uncultivable, as such quarry operations have been permitted on lease basis earlier for the period from 2007 to 2019 vide proceedings No.288/Q3/2010 dated 27.01.2010 of the Director of Mines and Geology, Visakhapatnam. A quarry lease for building stone and gravel was granted in favour of Sri Ch.Gowri Venkata Kantham for an extent of 1.670 Hectares in Sy.No.180/1 of Vizianagaram Bit-II of Vizianagaram Mandal for the said period.

As per Gilmen Diaglot Register, Vizianagaram Samsthanam, Vizianagaram Bit-II Village, the Sy.No.74 in an extent of Ac.90.18 cents was

classified as Inam Dry covered by T.D.No.951 and it was registered in the name of Sagi Venkatapathiraju and Butchi Venkayya. Later on, as per the SFA/MDR record, the said survey number was sub divided into 7 sub divisions i.e., Sy.Nos.74/1, 74/2, 74/3, 74/4, 74/5, 74/6 & 74/7. During the survey and settlement operations, the Sy.No.74/4 is correlated to Sy.No.180/1 and it was classified as Rallagutta poramboke with an extent of Ac.19.00 cents and it was shown in the remarks column (12) as Ralla Gutta in SFA/MDR. The petitioners are not in possession of the land and the land is adjacent to another private lands. As per MDR (Manual Diaglot Record)/ Settlement Record, the land in Sy.No.180/1 correlate to old Sy.No.74/4 to an extent of Ac.19.00 cents recorded as Poramboke Ralla Gutta. The then Joint Collector, Vizianagaram passed an order dated 29.10.2021 to classify the land in Sy.No.180/1 from Ralla Gutta Poramboke to Ryotwari Dry with an immediate effect.

The petitioners failed to place before this Court the alleged order of Inam Deputy Tahsildar issued in 1960. Even if such an order exists, the same is illegal. The Settlement Fair Adangal/MDR shows that the subject land is Ralla Gutta. Aggrieved by the orders of the 3rd respondent/Joint Collector, the 4th respondent/Tahsildar filed an appeal before the 2nd respondent and the same was allowed, which is assailed in this writ petition.

5. The learned senior counsel for the petitioners contends that the order of the 3rd respondent dated 29.10.2021 is not an appealable order and the 2nd respondent has no jurisdiction to entertain the said appeal and that apart the 2nd respondent went into the merits of the case without having any jurisdiction though it was canvassed by the petitioners herein/ respondent Nos.2 & 3 therein and without going into the said issue, passed the above said impugned order dated 28.10.2022 which is liable to be set aside in limine as it lacks jurisdiction. In support of his contentions, he also relies upon the following decisions.

(i) In the matter of **Rafique Bibi (Dead) by LRs. v. Sayed Waliuddin (Dead) by LRs. and others**¹, the Hon'ble Supreme Court observed at para No.7 as under:

7. Two things must be clearly borne in mind. Firstly, "the Court will invalidate an order only if the right remedy is sought by the right person in the right proceedings and circumstances. The order may be 'a nullity' and 'void' but these terms have no absolute sense; their meaning is relative, depending upon the Court's willingness to grant relief in any particular situation. If this principle of illegal relativity is borne in mind, the law can be made to operate justly and reasonably in cases where the doctrine of ultra vires, rigidly applied, would produce unacceptable results. (Administrative Law, 8th Edition, 2000, Wade and Forsyth, p. 308). Secondly, there is a distinction between mere administrative order and the G decrees of Courts, especially a superior Court.

¹ (2004) 1 SCC 287

(ii) In the matter of **Jagmittar Sain Bhagat and others v. Director, Health Services, Haryana and others**², the Hon'ble Supreme Court held at para No.9 as under:

9. Indisputably, it is a settled legal proposition that conferment of jurisdiction is a legislative function and it can neither be conferred with the consent of the parties nor by a superior Court, and if the Court passes a decree having no jurisdiction over the matter, it would amount to nullity as the matter goes to the roots of the cause. Such an issue can be raised at any stage of the proceedings. The finding of a Court or Tribunal becomes irrelevant and unenforceable/ inexecutable once the forum is found to have no jurisdiction. Similarly, if a Court/Tribunal inherently lacks jurisdiction, acquiescence of party equally should not be permitted to perpetuate and perpetrate, defeating the legislative animation.

6. Similarly, the learned Special Government Pleader appearing for the respondents refers to the Full Bench decision of the erstwhile High Court of Andhra Pradesh in the matter of **Vinjamuri Rajagopala Chary and others v. Principal Secretary, Revenue Department, Hyderabad and others**³, wherein certain directions were issued at para No.158 and (ix) it is as under:

158 (ix). It is open to the parties to a document, if the relevant property/land finds place in the list of properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A, to apply for its deletion from the list or modification thereof, to the concerned authorities as provided for in the guidelines. The concerned authorities are obliged to consider the request in proper perspective and pass appropriate order within six weeks from the date of receipt of the application and make its copy available to the concerned party.

² (2013) 10 SCC 136

³ 2015 SCC Online Hyd 407

7. In the light of the above said facts and circumstances, upon consideration of the rival submissions made and the decisions relied upon, the issue falls for consideration in this writ petition is,

‘whether the 2nd respondent can entertain appellate jurisdiction against the order of the 3rd respondent dated 29.10.2021 to pass the above said impugned order of the 2nd respondent dated 28.10.2022 and whether it is sustainable’?

8. It is to be seen that the petitioners filed a claim petition before the 3rd respondent to make a correction with respect to change of classification of the subject land in an extent of Ac.19.00 cents in Sy.No.180/1 (Old Survey No.74), T.D.No.951, of Vizianagaram Bit-II, Vizianagaram Mandal and District under the provisions of BSO 34-B(10) contending that the petitioners are the joint pattadars of the subject land and the same is covered by the provisions of the A.P. Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short, ‘the Act, 1956’). After the Inam enquiry under Section 3(3) of the said Act, the predecessors in title namely P.Venkatapathi Raju and others were granted Ryotwari patta under Section 7 of the Act vide proceedings dated 13.12.1960 and the factum of the grant of patta was subsequently reaffirmed in the proceedings of the 4th respondent/Tahsildar in the year 1979, reaffirming the grant in favour of the predecessors of the petitioners and the petitioners are the successors in interest of the said grant and as such, as the

pattadars of the subject land by succession sought for the above correction in the revenue records, since the classification of the subject land was erroneously mentioned/continued in the Settlement Register as Poramboke and in the remarks column as Ralla Gutta instead of mentioning it as Ryotwari Dry. In view of the incorrect classification shown in the Settlement Register, the subject land has been wrongly included in the list of prohibited properties under section 22A of the Registration Act under a misconception that the subject land is a government land.

9. The petitioners relied upon the registered sale deed No.2486/1965 in favour of their mother with respect to the subject land and the link documents of two different registered sale deeds bearing Nos. 942/1963 and 943/1963 in favour of the predecessors in interest and other pre-linked registered sale deeds bearing Nos.54/1959, 55/1959, 1708/1939 and 1276/1928, showing the flow of title covering the subject land. It is the specific case of the petitioners that the survey and settlement party without verification of the old Inam records, Inam Fair Register under TD No.951 and Inam-B Register of Vizianagaram Bit-II and also pre-abolition record of Gillman Register 1903, the classification of the said land under TD No.951 covered by old Sy.No.74/4 correlating to the MDR Sy.No.180/1 to an extent of Ac.19.00 cents of Vizianagaram Bit-II was wrongly recorded as 'Poramboke' and in the

remarks column, it is shown as 'Ralla Gutta'. The entire land in old Sy.No.74 including the subject land under TD No.951 covered by old Sy.No.74/4 correlating to Sy.No.180/1 of Vizianagaram Bit-II is an Inam Dry land but not Poramboke (Rallagutta) as it was wrongly noted by the survey and settlement party in the SFA/MDR of Vizianagaram Bit-II and as stated supra, the said property was purchased by the petitioners' mother vide registered sale deed No.2486/1965. After coming to know the above said erroneous entries made in the above said revenue records with respect to the subject land, the petitioners and their mother approached the then Deputy Tahsildar (Inams), Vizianagaram in view of amendment of Section 2A of Amended Inam Act, 1975 and filed claim petition u/s. 7(1) of A.P. Inams (Abolition and Conversion into Ryotwari) Act, 1956 for the subject land for making necessary incorporation in SFA/MDR of Vizianagaram Bit-II for the classification made by the survey party against the subject land in an extent of Ac.19.00 cents in Sy.No.180/1, T.D.No.951, Old Survey No.74 of Vizianagaram Bit-II, Vizianagaram Mandal and District.

10. The then Special Deputy Tahsildar, Inams, Vizianagaram enquired into the matter and held that since the matter was already enquired earlier and that Form-VIII Ryotwari patta as required u/s.4(1) of the Act, 1956 was already issued in the year 1960 by the Special Deputy Tahsildar (Inams) in

favour of the persons holding then the lands (vendors of the present petitioners herein) the present enquiry is redundant and unwarranted and it is dropped accordingly without reference to the provisions of Section 2A of the Act as it has no retrospective effect and it was further held that the names of the present enjoyers will however be got entered in the village records carrying out necessary changes to avoid duplication of the work.

11. Due to the wrong classification made as stated above, the then revenue authorities wrongly recommended quarrying operations over the subject land which was over and at present the subject land is vacant even as per the contentions of the learned counsel appearing for the respondents. Then the 3rd respondent called for the detailed enquiry report from the Tahsildar, Vizianagaram by referring the claim petition/representation of the petitioners along with the enclosed documents therein. Accordingly, the Tahsildar, Vizianagar in his letter vide Rc.No.20/2021, dated 30.06.2021 enquired into the matter and submitted a report stating that as per the documents produced by the petitioners, Inam Form II notification was published in the District Gazette dated 02.11.1957 showing that the subject land under TD No.951 covered by old Sy.No.74 of Vizianagaram Mandal was classified as Inam Dry and the decision rendered by the SDT (Inams) Vizianagaram, in his order dated 05.09.1979 stated that the subject lands are

Inam lands for which Form-VIII pattas were already issued in the year 1960 and in view of clear sale deeds produced by the applicants since 1965, 1963, 1959 and 1939, requested the 3rd respondent to take a suitable decision on the request of the applicants therein/petitioners for change of classification from Poramboke (Rallgutta) to Ryotwari Dry land and submitted further classification relying upon all the above said documents and upon careful examination of the same, the 3rd respondent passed the detailed order dated 29.10.2021 exercising the powers vested under BSO-34B(10) and ordered to reclassify as 'Ryotwari Dry' from 'Poramboke-Rallaguttalu with immediate effect for the subject land and the Tahsildar, Vizianagaram was directed to carry out the necessary changes in all the revenue records i.e., MDR/SFA, FCO/FMB and other relevant revenue and survey records in view of the change of classification of the subject land by further directing the Tahsildar to submit denotification proposals to the District Collector, Vizianagaram through the Revenue Divisional Officer, Vizianagaram on receipt of application from the petitioners.

12. Against this order of the 3rd respondent dated 29.10.2021, the Tahsildar, Vizianagaram/4th respondent went in appeal before the 2nd respondent and when the respondent Nos.2 and 3 therein/petitioners herein raised the maintainability of the appeal, the Tahsildar informed the said

authority that he is under the instructions of the Collector, Vizianagaram to file an appeal before the CCLA and in obedience of the same, he filed this appeal which cannot be a ground for appeal. Though the objections were taken by the respondent Nos.2 and 3 therein/petitioners herein with regard to the maintainability of the appeal, as per BSO-34B(10), it appears that without answering the same, the 2nd respondent went into other merits of the case and allowed the appeal vide its order dated 28.10.2022 by setting aside the order of the 3rd respondent dated 29.10.2021 with respect to the subject land.

13. Even in respect of other merits of the case, it is the case of the petitioners that there is no denial of the fact that the Ryotwari patta was granted u/s.7 of the Act to the predecessors of the petitioners way back in the year 1960 and the same was reaffirmed by the 4th respondent/ Tahsildar vide S.R.6/77 (TD951) Inams, dated 05.09.1979 which are not assailed by anybody including the said authorities till date and thus they have attained finality conferring absolute ownership over the subject land for the predecessors of the petitioners and also the petitioners. When once a statutory grant has conferred the title on the predecessors of the petitioners, the correction in the Settlement Register from the erroneous entry to the correct entry becomes ministerial and consequential act. It is only a

correction of the classification of land in the Settlement Register consequent on the grant of patta in favour of the predecessors of the petitioners.

14. Admittedly, the subject land is covered by the larger extent of the land forming part of the same Sy.No.74 in an extent of Ac.90.18 cents classified as Inam Dry covered by T.D.No.951 which was subdivided as per the SFA/MDR into 7 sub-divisions i.e., Sy.Nos.74/1, 74/2, 74/3, 74/5, 74/6 & 74/7 and the Sy.No.74/4 is correlating to Sy.No.180/1 presently. It is not the case of the respondents that the Ryotwari patta granted in the year 1960, the reaffirmation orders of the Tahsildar dated 05.09.1979 and the above said sale deeds relied upon the petitioners were in dispute at any point of time.

15. Be that as it may, for the purpose of resolving the issue involved in this writ petition, let us look at the relevant A.P. Board of Revenue Standing Orders as under:

B.S.O. 34-B:- Correction of errors in survey and demarcation:

(10) Corrections in permanent 'A' Registers:- Collectors may carry out minor corrections in the settlement registers without previous reference to the Board of Revenue, except in respect of the column headed "ryotwari (Government) or Inam". The previous sanction of the Board should also be obtained in carrying out corrections to the columns showing (1) "old S.No. and letter, if any" and (2) "Number and name of registered holder of Inamdar" in respect of Inam lands. All corrections in the permanent 'A' registers made under this Standing Order should be printed as they are finally approved and communicated to all officers to whom copies of the registers are supplied. A printed

copy of all corrections in the Settlement Register should be sent to the Board of Revenue.

and

B.S.O. 15: Appeals :- From every original decision in darkhast cases whether it is passed by the Tahsildar, the Divisional Officer, or the Collector, one appeal shall be allowed, provided that it be made within 30 days of the date on which the original decision was pronounced or communicated if the appeal is from the Tahsildar to the Divisional Officer or from the Divisional Officer to the Collector, and within 40 days if it be from the Collector to the Board. xxxx

16. From the reading of the above said standing orders, only B.S.O.15 enables the appeal from the orders of the Tahsildar to the Divisional Officer or from the Divisional Officer to the Collector as the case may be from every original decision in darkhast cases and it does not cover the order passed under BSO-34B(10). Hence the impugned order of the 2nd respondent/Commissioner of Appeals dated 28.10.2022 is not relatable to the statutory provision and it is unknown as to how the 4th respondent/Tahsildar could have maintained any proceedings before the 2nd respondent/Commissioner of Appeal to invalidate the order passed by the 3rd respondent/Joint Collector with regard to the classification of the subject land. When once the 2nd respondent/Commissioner is not vested with any statutory power under any law for the time being in force, the proceedings of the 2nd respondent/Commissioner, which is impugned in this writ petition becomes void ab initio.

17. For the foregoing reasons, in view of the settled legal position and clear Board Standing Orders, the order of the 2nd respondent dated 28.10.2022 is liable to be set aside declaring it as without jurisdiction and not maintainable. Accordingly, the same is set aside and thus the issue involved in this writ petition is answered as 'No'. However, it is open for the aggrieved if any, to assail the proceedings of the 3rd respondent dated 29.10.2021 in accordance with law, if so advised.

18. In the result, the writ petition is allowed. There shall be no order as to costs.

The interim order, if any, deemed to have been vacated. Pending interlocutory applications, if any, shall stand disposed of.

JUSTICE B. KRISHNA MOHAN

PND
17-10-2025