

APHC010384272023



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

[3330]

MONDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION NO: 19772 of 2023

Between:

- 1.N KONDAIAH, S/O. LATE N.NARAYANA SWAMY, AGED ABOUT 62 YEARS, OCC. AGRICULTURE, R/O. 1-13, O.C. COLONY, NAGASAMUDRAM VILLAGE, GUNTAKAL MANDAL, ANANTAPURAMU DISTRICT
- 2.N.RAGHAVAIAH,, S/O. LATE N.NARAYANA SWAMY, AGED ABOUT 55 YEARS, OCC. AGRICULTURE R/O. 1-13, O.C.COLONY, NAGASAMUDRAM, ANANTAPUR, ANDHRA PRADESH, 515 401.
- 3.N.SANKARAI AH,, S/O. LATE N.NARAYANA SWAMY, AGED ABOUT .51 YEARS OCC. AGRICULTURE, R/O. 1-13, O.C. COLONY, NAGASAMUDRAM, ANANTAPUR, ANDHRA PRADESH- 515 401.
- 4.N.SREENIVASULU,, S/O. LATE N.NARAYANA SWAMY AGED ABOUT . 49 YEARS, OCC. AGRICULTURE, R/O. 1-13, O.C. COLONY, NAGASAMUDRAM, ANANTHAPUR, ANDHRA PRADESH.
- 5.N.GOPAL,, S/O. LATE N.NARAYANA SWAMY AGED ABOUT . 45 YEARS, OCC. AGRICULTURE, R/O 22/292-C-54, NEAR ANKALAMMA TEMPLE, OLD GUNTAKAL, ANANTHAPUR, ANDHRA PRADESH- 515 801.

...PETITIONER(S)

AND

- 1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY REVENUE DEPARTMENT, SECRETARIAT BUILDINGS

VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.

2.THE COLLECTOR & DISTRICT MAGISTRATE, ANANTHAPURAM DT.

3.THE REVENUE DIVISIONAL OFFICER, , ANANTHAPURAM.

4.THE TAHSILDAR, B.K. SAMUDRAM MANDAL, B.K. SAMUDRAM,
ANANTAPURAMU

5.AVVARI NAMADEVA, S/O. LAKSHMANNA, AGED ABOUT 65 YEARS,
R/O. D.NO.2/60, BUKKARAYA SAMUDRAM VILLAGE AND MANDAL,
ANANTHAPURAM 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 any writ, order or direction preferably a writ in the nature of mandamus declaring the proceedings of the 3rd Respondent in Rc.No.D2(B)/416/ 2021, dt. 30.01.2023, as illegal, arbitrary & violative of Articles 14, 21 and 300 A of the constitution of India and consequently direct (a) the Respondents 1 to 4 to mutate the names of the Petitioners as owners and possessors with respect to lands admeasuring Ac.0.04 Cents in Sy.No.556, Ac.4.89 Cents in Sy.No.557/3A and Ac.4.74 Cents in Sy.No.558/1A of B.K.Samudram (V & M), Anantapuramu Dt. (b) to direct the respondents to delete the lands admeasuring Ac.0.04 Cents in Sy.No.556, Ac.4.89 Cents in Sy.No.557/3A and Ac.4.74 Cents in Sy.No.558/1A of B.K.Samudram Village and Mandal, Anantapuramu District in prohibited land Government land list U/Sec.22(A)-(1)(a) as per G.O.M.S.No.575,dt.16.11.2018.

Counsel for the Petitioner(S):

1. T NAGARJUNA REDDY

Counsel for the Respondent(S):

1.GP FOR REVENUE

2.CHALASANI AJAY KUMAR

The Court made the following:

Order:

The present writ petition is filed under Article 226 of the Constitution of India seeking following relief:

.....to issue any writ, order or direction preferably a writ in the nature of mandamus declaring the proceedings of the 3rd Respondent in Rc.No.D2(B) /416/ 2021, dt. 30.01.2023, as illegal, arbitrary & violative of Articles 14, 21 and 300 A of the constitution of India and consequently direct (a) the Respondents 1 to 4 to mutate the names of the Petitioners as owners and possessors with respect to lands admeasuring Ac.0.04 Cents in Sy.No.556, Ac.4.89 Cents in Sy.No.557/3A and Ac.4.74 Cents in Sy.No.558/1A of B.K.Samudram (V & M), Anantapuramu Dt. (b) to direct the respondents to delete the lands admeasuring Ac.0.04 Cents in Sy.No.556, Ac.4.89 Cents in Sy.No.557/3A and Ac.4.74 Cents in Sy.No.558/1A of B.K.Samudram Village and Mandal, Anantapuramu District in prohibited land Government land list U/Sec.22(A)-(1)(a) as per G.O.M.S.No.575,dt.16.11.2018 and pass such order or orders.....

2. Heard learned designated senior counsel Sri O.Manohar Reddy assisted by T. Nagarjuna Reddy for the writ petitioners and Ch.Venkaiah for Chalasani Ajay Kumar for the 5th unofficial respondent and the learned Assistant Government Pleader for the official respondents.

3. The writ petitioner has submitted an application in Spandana vide application No.ATP201909098015 dated 09.09.2019 to the District Collector

with a request for deletion of irregular entries made in the Web-Land in respect of the lands in Survey Nos. 557-3A and 558-1A. On perusal of the order dated 02.02.2021 of the 4th respondent Tahsildar that it indicates an enquiry was conducted duly issuing notices to the affected parties and submitted a report to 3rd Revenue Divisional Officer seeking permission to cancel the Pattadar Pass Book issued in respect of the lands in Sy. No's 557-3A and 558-1A of B.K. Samudram Village and Mandal to allow the Tahsildar to conduct a thorough enquiry and to issue fresh order.

4. Pursuant to the order dated 02.02.2021 submitted by the 4th respondent Tahsildar, the 3rd respondent-Revenue Divisional Officer, has ordered to delete all the entries in 1B Nos. 04, 272, 273, 1035 1532, 1533, 2948, and enabling the Tahsildar to undertake a fresh detail enquiry and to issue Pattadar Pass Books only in respect of De-facto enjoyers and title holders on the land.

5. Accordingly the 4th respondent-Tahsildar, B.K.Samudram has conducted a fresh enquiry and passed an order vide proceedings in Rc.No.B/688/2022, dated 30.11.2022, observing that the writ petitioner is not in actual possession of the land as per the enquiry and field inspection conducted and the Pattadar Pass Book will be issued to the persons who are in actual possession of the property by invoking Sub-Rule 6 of Rule 26 of A.P.

Rights in Land and Pattadar Passbooks Act 1989 (for short hereafter called as rules).

6. The said order of the 4th respondent-Tahsildar has been assailed before the 3rd respondent-Revenue Divisional Officer and the order of the Tahsildar, B.K.Samudram was confirmed by the 3rd respondent-Revenue Divisional Officer vide proceedings in Rc.No.D2(B)/416/2021 vide order dated 30.01.2023. The said proceedings of the 3rd respondent Revenue Divisional Officer dated 30.01.2023 has been assailed in the present writ petition.

7. The learned senior counsel for the petitioner would submit that, the orders of the Tahsildar, as confirmed the Revenue Divisional Officer is unsustainable, arguing that the Sub-rule 6 of Rule 26 of the A.P. Rights in Land and Pattadar Pass Book Rules, 1989 has been substituted with new rule. Hence, prays to set aside the orders and remand back to the 4th respondent-Tahsildar to pass fresh order pursuant to the substituted statutory rule as the respondents cannot dwell upon the un-substituted rule 26 (6) of A.P. Rights in Land and Pattadar Pass Books Rules, 1989.

8. The learned counsel Sri Ch. Venkaiah for Sri Chalasani Ajay Kumar learned counsel for unofficial respondent would submit that the petitioners are having no right or title over the property and the respondent authorities are not competent to decide the rights over the property, the Civil Court is competent to decide the right over the property and supported the findings of the

respondents which are impugned in the instant writ petition and prays to dismiss the Writ Petition.

9. In this regard, it is imperative to extract the Sub-Rule 6 of rule 26 which has been omitted and substituted with a new rule vide G.O.Ms.No.271 Revenue (EA&AR) Department dated 01.07.2016.

The Sub-Rule 6 of rule 26 which reads under prior to substitution: *A title deed or pass book shall be given only to those persons who are in actual possession of the land.*

10. A perusal of the rule thereby substituting sub-rule (6) of Rule 26 of the A.P. Rights in Land and Pattadar Passbooks Act, 1989 by substituted rule clearly indicates that the Tahsildar, who could not pass an order asserting that petitioners not in possession of the land are not entitled for title deed and pattadar pass books, which was in gross violation of the substituting rule made to the rules and the respondents cannot dwell upon the unsubstituted rule 26 (6) of rules 1989. The learned Tahsildar has proceeded to pass an order dated 31.12.2019 proceeding on an impression that his power to continues under substituting rule 26 of pass books rules totally ignoring the substituted rule 26 (6). It is clear that the learned Tahsildar has failed to take note of the substituting rule and passed an illegal order by exercising his so called powers under unamended rule 26 which rule were admittedly substituted much prior to date of the of impugned order. The Tahsildar having failed to take note of the substituted rule and exercised its jurisdiction which is not permissible under law.

11. Hence the impugned proceedings of both the Tahsildar in Rc.No.B/688/2022 dated 30.11.2022 and the proceedings in Rc. No: D2(B)/416/2021 dated 30.01.2023 of Revenue Divisional Officer is hereby set aside and remanded back to the 4th respondent Tahsildar to pass afresh order keeping in view of the substituted rule 26 (6) of A.P. Rights in Land and Pattadar Pass Books Rules, 1989 as expeditiously as possible and the Tahsildar is at liberty to pass an order keeping in view of the provisions of the A.P. Rights in Land and Pattadar Pass Books Act 1971 any observation, if any, made in the order is only for disposal of the writ petition and this order doesn't preclude the Tahsildar to pass an order in accordance with law.

12. Accordingly, the present Writ Petition is stands disposed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

TARLADA RAJASEKHARA RAO, J

Date:02.02.2026

JAK

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHARA RAO

WRIT PETITION NO:19772 of 2023

Date:02.02.2026