**(2009) 03 AP CK 0031**

**In the Andhra Pradesh High Court**

**Case No :** Writ Petition No. 10145 of 2008

G. Ranga Reddy APPELLANT

Vs

The District Collector and Others RESPONDENT

**Date of Decision :** 04-03-2009

**Acts Referred:**

Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 — Section 158, 166B
Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 5(5), 9
Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 — Rule 3

**Citation :** (2009) 3 ALD 678 : (2009) 4 ALT 425

**Hon'ble Judges :** L. Narasimha Reddy, J

**Bench :** Single Bench

**Advocate :** Dammalapati Srinivas, for the Appellant; G.P for Revenue and G. Mohan Rao, for the Respondent

**Final Decision :** Allowed

# Judgement

L. Narasimha Reddy, J.—The 5th respondent filed a revision u/s 166-B of the A.P. (Telangana Area) Land Revenue Act, 1317 Fasli (for short ''the Act'') before the District Revenue Officer, Warangal District, the 3rd respondent herein, with a prayer to rectify the entries in respect of the land in Sy.No.145 of Guruvanpet Village, Cherial Mandal, Warangal District for the years 1975-76 to 2001-02. For the said period, the entries were in the name of the petitioner herein, vis-a-vis the said land. The 3rd respondent took up the revision, issued notice to the petitioner, and passed an order, dated 08-02-2008, directing rectification of the entries, as prayed for by the 5th respondent. The same is challenged in this writ petition.

2. It is urged that the revision u/s 166-B of the Act is not the remedy for rectification of the entries in the revenue records, and the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short ''the R.O.R. Act'') is a comprehensive enactment for this purpose. It is also stated that the findings recorded by the 3rd respondent, on facts, are also incorrect.

 

3. The 5th respondent filed a counter-affidavit, narrating the relevant facts. It is stated that the revision u/s 166-B of the Act is comprehensive in nature, and the 3rd respondent is conferred with the power, through the process of delegation.

4. Sri Dammalapati Srinivas, learned Counsel for the petitioner, submits that it is totally impermissible for the 3rd respondent to exercise powers u/s 166-B of the Act, when the matter is squarely covered by the R.O.R. Act. He contends that even from a perusal of Section 166-B, it is evident that the power under that provision can be exercised only when no remedy of appeal or review is provided against an order, and there is no basis for exercise of power, under that Section, when series of remedies are provided, under the R.O.R. Act.

5. Learned Government Pleader for Revenue, and Sri G. Mohan Rao, learned Counsel for the 5th respondent, on the other hand, submits that Section 166-B of the Act is residuary provision, conferring special powers upon the superior revenue authorities, to rectify errors, if any, committed by the subordinates. He places reliance upon the judgment of this Court in Velupadas Veeraswamy Vs. The Secretary, Revenue Department, State of Andhra Pradesh and Others, .

6. The name of the petitioner was entered in the revenue records, maintained for the village in respect of the land in Sy. No. 145, for the years 1975-76 to 2001-02. The 5th respondent felt aggrieved by the same, and approached the 3rd respondent through a revision, u/s 166-B of the Act. The revision was entertained and the impugned order was passed. The petitioner challenges the same on several grounds. It is urged that pahanis cannot be treated as revenue records, and that the revision u/s 166-B of the Act is not maintainable.

7. The father of the petitioner and father of the 5th respondent are said to be brothers. In his revision filed before the 3rd respondent, the 5th respondent pleaded that, in the family partition, two brothers got 39 guntas each, and after the death of their father, his share was also recorded in the name of the petitioner. The 3rd respondent issued notice to the petitioner. The facts pleaded by the 5th respondent were disputed, and an objection was raised as to the jurisdiction of the 3rd respondent, to entertain the revision. Through the impugned order dated 08-02-2008, the 3rd respondent allowed the revision, and directed that the entries be made, in favour of the 5th respondent.

8. The R.O.R Act and the Rules made thereunder, is a self-contained Code, dealing with the making and amendment of entries in the revenue records, as well as the issuance of pattadar pass books and title deeds. The Mandal Revenue Officer is conferred with the power to discharge the said functions. A remedy of appeal is provided under Sub-section (5) of Section 5, to the Revenue Divisional Officer, and revision lies u/s 9 of the R.O.R. Act, to the Joint Collector. Section 166-B of the Act, on the other hand, is a general provision, which confers powers of revision upon the District Collector, to call for the records of his subordinates, and to rectify the same. A specific condition incorporated under that Section is, that there must not exist any remedy of appeal, or revision against the order,

 

that is sought to be revised under that provision. By virtue of delegation, the powers of District Collector are conferred upon the District Revenue Officer also.

9. It hardly needs any mention or emphasis, that whenever the Legislature enacts special law, the provisions, which are general in nature, cease to cover the field. At a time, when the R.O.R. Act was not there, it was certainly competent for the Authority, named in Section 166-B of the Act, to revise the orders passed by the various authorities, subordinate to him, be it, in relation to amendments of revenue records, or otherwise. Once the A.P. State Legislature has enacted the R.O.R Act, and prescribed the remedies for the aggrieved parties, Section 166-B of the Act becomes inapplicable for the steps taken under the R.O.R Act.

10. It is no doubt true that a learned single Judge of this Court in Valupadas Veera Swamy v. State of A.P. (1 supra), upheld the powers u/s 166-B of the Act, in relation to entries made under the R.O.R Act. That, however, was on the basis that the pahanis and adangals cannot be treated as record of rights, in view of addition of note to Rule 3 of the Rules, through G.O.Ms. No. 36, Revenue, dated 15-01-1994. In the instant case, the entries were made in favour of the petitioner, for the years 1975-76 onwards, i.e. much before the date of G.O.Ms. No. 36, dated 15-01-1994. Hence, they were within the definition of record of rights, and rectification thereof could have been made, only by the Authority, stipulated under the Act and Rules. Obviously it is the Revenue Divisional Officer, that is conferred with the power of appeal, u/s 5(5) of the R.O.R. Act.

11. A Division Bench of this Court in M.B. Ratnam and Others Vs. Revenue Divisional Officer and Others, , held that, once the subject-matter is covered by the provisions of the R.O.R Act, Section 166-B of the Act has no application to such proceedings. In the words of the Division Bench,-

Para-66: We have no doubt whatsoever in our mind to hold that the A.P (T.A.) Land Revenue Act, 1317 Fasli is a general law which deals mainly with land revenue and allied matters whereas the R.O.R. Act not only being a subsequent Act but also being a special law in relation to record of rights shall prevail over the provisions of the A.P. (T.A.) Land Revenue Act, 1317 Fasli. In our considered opinion, the remedy provided u/s 158 of the Land Revenue Act, 1317 Fasli is not available to challenge any order passed by the Mandal Revenue Officer under the provisions of the R.O.R. Act. The remedies provided under the R.O.R. Act alone would be available to the aggrieved individual....

12. It has already been mentioned that the entries, which are sought to be modified, did constitute the record of rights, since they related to a period, prior to the year 1994. The fact that the block period spilled beyond 1994, does not make much of difference.

13. For the foregoing reasons, the writ petition is allowed, and the impugned order is set aside. It is left open to the 5th respondent to work out her remedies, in accordance with law.

 

14. There shall be no order as to costs.