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**(2008) 08 AP CK 0055**

**In the Andhra Pradesh High Court**

**Case No : Writ Petition No. 12417 of 2008**

Gandarapu Narasimhulu @ Narisimha Chowdary

APPELLANT

Vs

District Collector and Others

RESPONDENT

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**Date of Decision : 14-08-2008**

**Acts Referred:**

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 10, 9  
Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 — Rule 26(6)  
Limitation Act, 1963 — Section 12, 24, 3, 3(3), 4(1)

**Citation : (2008) 6 ALD 809 : (2009) 1 ALT 149**

**Hon'ble Judges : N.V. Ramana, J**

**Bench : Single Bench**

**Advocate : K. Maheswara Rao, for the Appellant; G.P. for Revenue for Respondent Nos. 1 to 3 and Srinivas Dammalapati, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

N.V. Ramana, J.—Assailing the issuance of Pattadar Pass Books and title deeds issued by the 3rd respondent, namely the Mandal Revenue Officer, Anantapur (Tahsildar), in respect of an extent of Ac.5-29 cents in Sy. No. 192 of Akkampalli village, Anantapur Mandal, in favour of respondent Nos. 4 to 6, the petitioner preferred appeal before the Revenue Divisional Officer, Anantapur, who by order dated 28.10.2006, cancelled the Pattadar Pass Books, issued by the 3rd respondent, in favour of respondent Nos. 4 to 6, and remanded the matter to him, for de novo enquiry and for finalization of the ownership of the land. Aggrieved by the said order, respondent Nos. 4 to 6 filed revision before the 2nd respondent, namely the Joint Collector, Anantapur, and the same is pending in File No. R.C. No. D4/5869/ 2006. While the case is pending, it is the case of the petitioner that the 2nd respondent, passed the impugned order dated 31.05.2008, directing the 3rd respondent to inspect the land in question and ascertain as to who is in physical possession thereof and send his enquiry report.

2. The learned Counsel for the petitioner submitted that the scope and power of

revision u/s 9 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (hereinafter referred to as "the Act"), is very limited, and the authority exercising such revisional power, cannot appoint an official to note down the physical possession of the land and call for a report, and as such, the order passed by the 2nd respondent, directing the 3rd respondent to inspect the land in question and ascertain as to who is in physical possession thereof, is without jurisdiction, illegal and arbitrary.

3. The learned Government Pleader for Revenue appearing on behalf of official respondent Nos. 1 to 3 submitted that the power of revision is conferred on the revisional authority u/s 9 of the Act, and Section 10 of the Act provides that a recording authority or an appellate authority or any other officer for the purpose of holding any enquiry under the Act, have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908 when trying a suit in respect of the matters enumerated there under, while Rule 26(6) of the Rules made there under, provides that title deed or pass book shall be given only to those persons who are in actual possession of the land. He thus submitted that if the provisions of Section 10 of the Act are read with the provisions of Rule 26(6) of the Rules made there under, it would become clear that the power of the revisional authority, is very wide, and since to grant title deeds are to be given only to persons who are in actual possession of the land, no exception can be taken to the impugned order passed by the 3rd respondent, directing the 2nd respondent to ascertain as to who is in physical possession of the land and submit his report.

4. Unofficial respondent Nos. 4 to 6 filed vacate stay petition along with counter affidavit, and while reiterating the counter averments, and while adopting the arguments of the learned Government Pleader for Revenue appearing on behalf of official respondent Nos. 1 to 3, he submitted that it is only on the request made by the petitioner, the 2nd respondent passed the impugned order, and the same having been passed at the request of the petitioner, he cannot be permitted to assail the same, and prayed that the writ petition be dismissed.

5. Having heard the learned Counsel for the petitioner, the learned Government Pleader for Revenue for respondent Nos. 1 to 3 and the learned Counsel for respondent Nos. 4 to 6, and considering the rival pleadings of the respective parties, the following question does arise for consideration in the writ petition.

Whether the revisional authority exercising power u/s 9 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971, is entitled to appoint an official to note down as to who is in physical possession of the property and call for a factual report, and if so whether the 2nd respondent, who is the revisional authority, was justified in passing the impugned order, appointing an official to note down as to who is in physical possession of the property?

6. Admittedly, both the petitioner and respondent Nos. 4 to 6 are claiming title deeds and pattadar pass books. As against the order passed by the Revenue Divisional Officer, cancelling the title deeds and pattadar pass books, respondent

Nos. 4 to 6 filed revision and the same is pending before the 2nd respondent. While the same is pending, the petitioner made application to the 2nd respondent requesting him to direct the Mandal Surveyor to inspect the land in question and submit his report. Acting on the said application, the 2nd respondent passed the impugned order, directing the 3rd respondent to ascertain as to who is in physical possession of the land in question and submit his report. It is this order, which the petitioner has called in question, in this writ petition contending that the scope and power of the revisional authority u/s 9 of the Act is very limited, and as such, he could not have passed an order appointing an officer to ascertain as to who is in physical possession of the property.

7. To consider the question involved in the writ petition, it would be apposite to examine the provisions of the Sections 9 and 10 of the Act, which read as follows:

9. Revision: The Collector may either suo motu or on an application made to him, call for and examine the record of any Recording Authority, Mandal Revenue Officer or Revenue Divisional Officer under Sections 3, 5, 5A or 5B, in respect of any record of rights prepared or maintained to satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or reversed or remitted for reconsideration, he may pass orders accordingly:

Provided that no such order adversely affecting any person shall be passed under this section unless he had an opportunity of making a representation.

10. Powers of recording and appellate authorities: - (1) A recording authority or an appellate authority or any other officer shall for the purpose of holding any enquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) when trying a suit in respect of the following matters, namely:

(a) Summoning and enforcing the attendance of any person and examining him on oath;

(b) Requiring the discovery and production of documents; and

(c) Any other matter which may be prescribed.

(2) The provisions of Section 5 and Sections 12 and 24 of the Limitation Act, 1963, shall apply for the purposes of extension and computation of the periods prescribed in Sections 3(3), 4(1), 5(5), 5A and 5B of this Act.

8. From a juxtaposed reading of the above provisions it becomes clear that while u/s 9 of the Act, the Collector is vested with the power of revision either suo motu or on an application made to him, and in exercise of such power, he can call for and examine the record of any recording authority, Mandal Revenue Officer or Revenue Divisional Officer, under Section 3, 5, 5A or 5B, in respect of any record of rights prepared or maintained, to satisfy himself as to the

regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof, and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or reversed or remitted for reconsideration, he may pass orders accordingly, and such order can be passed only after the person whom such order is going to be affected, is given an opportunity of making a representation, and while u/s 10 of the Act, not only the recording authority and the appellate authority, but any other official, for the purpose of holding an enquiry under the Act, is vested with the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908.

9. Since the revisional power to be exercised by the authority u/s 9 of the Act, is in the nature of holding an enquiry, and having regard to the provisions of Section 10 of the Act, which for the purpose of holding an enquiry under the Act, vests the same powers as are vested in the civil Court under the Code of Civil Procedure, 1908, which none can dispute the fact are provided to do complete justice to the parties, and having regard to the fact that both the petitioner and respondent Nos. 4 to 6 are claiming title deeds and pattadar pass books in respect of the land in question, I am of the considered opinion that the 2nd respondent, with a view to ascertain as to who is in physical possession of the land, has rightly in exercise of his revisional powers u/s 9 of the Act, passed the impugned order, appointing an official to note down as to who is in physical possession of the property, and no exception can be taken thereto, and more so when Rule 26(6) of the Rules made provides that "a title deed or pass book shall be given only to those persons who are in actual possession of the land".

For the foregoing reasons, I find no merit in the writ petition, and the same is accordingly dismissed. No costs.