

(2025) 09 AP CK 0430

In the Andhra Pradesh High Court, Amaravati

Case No : Writ Petition No: 36765 Of 2022

Kalluri Savitri

APPELLANT

Vs

State Of Andhra Pradesh & Ors.

RESPONDENT

Date of Decision : 24-09-2025

Acts Referred:

Andhra Pradesh Rights In Lands And Pattadar Pass Books Act, 1971 — Section 4, 5, 5B, 8, 8(2)

Citation : (2025) 09 AP CK 0430

Hon'ble Judges : B Krishna Mohan, J

Bench : Single Bench

Advocate : N Ashwani Kumar, P Roy Reddy

Final Decision : Disposed Of

Judgement

B Krishna Mohan, J

1. Heard the learned counsel for the petitioner and the learned counsel appearing for the unofficial respondent Nos.5 to 8.

2. This writ petition was filed questioning the proceedings of the 4th respondent vide Rc.No.336/2021C, dated 29.09.2022 rejecting the mutation application filed by the petitioner dated 14.09.2022 with respect to the subject property in an extent of Ac.0.62 cents in Sy.No.45/3 and Ac.4.48 cents in Sy.No.45/2 of Nerellavalasa Village, Bheemunipatnam Mandal, Visakhapatnam District, Andhra Pradesh, without assigning proper reasons.

3. The learned counsel for the petitioner submits that originally, the subject land belongs to one Thota Satyanarayana who is the father of 11 children (1 son and 10 daughters). The eldest son Thota Ramachandra Rao was managing the joint family properties. Subsequent to the demise of Thota Satyanarayana and thereafter Thota Ramachandra Rao, Thota Ramachandra Rao's son T.V.Syamala Rao was managing the property. The petitioner in the instant case is the daughter of Late Thota Satyanarayana. Therefore having right over the property

she asked T.V.Syamala Rao to partition the property as there was no proper income being derived from the property. Since the same was denied, the petitioner issued a Newspaper publication about the same.

The petitioner initiated action in O.S.No.1559 of 2006 on the file of VI Additional Senior Civil Judge, Visakhapatnam to divide the said property into 11 equal shares, accordingly preliminary decree was passed in the said case on 18.06.2015. Pending suit, T.V.Syamala Rao alienated the property by creating third party rights vide Doc. Nos.1860/2015 dated 02.04.2015 and 6414/2016, 6415/2016, 6412/2016 & 6413/2016 dated 13.12.2016.

Later, final decree was passed in the said suit by the said Court on 28.11.2019. Initially, the petitioner approached the 2nd respondent vide an appeal in Rc.No.4050/2017/C, under section 5B of the A.P. Rights in Lands and Pattadar Pass Books Act, 1971 (in short, 'the Act, 1971') against the issuance of pattadar pass books to the unofficial respondents/vendors. The said appeal was challenged in W.P.No.8741/2021 before this Court, then there was a stay of all further proceedings as an interim measure vide its order dated 22.04.2021. Whereas the partition deed vide Doc. No.4460/2021 was executed and registered pursuant to the above said final decree on 23.08.2021. The W.P.No.8741 of 2021 came to be disposed of as the petitioner herein undertaken to withdraw the appeal to take appropriate steps pursuant to the above said final decree granting her title to the share in the joint family property.

Then the petitioner made an application under sections 4 & 5 of the Act, 1971, requesting to amend the record of rights and assess the proceedings issued by the Tahsildar dated 07.09.2022 and in pursuance of the same, the Tahsildar issued a notice vide Form VIII under Rule 19(1) dated 15.09.2022 and the same was impugned in the writ petition No.32176 of 2022, wherein an interim order of status quo was ordered dated 29.09.2022. Hence, the 4th respondent/Tahsildar rejected the mutation application of the petitioner by virtue of the above said impugned proceedings dated 29.09.2022 on the ground that there is a status quo order in W.P.No.32176 of 2022.

The learned counsel for the petitioner submits that the impugned proceedings of the 4th respondent dated 29.09.2022 is without application of mind judiciously while dealing with the application of the petitioner under section 5 of the Act No.26 of 1971. Mere existence of a civil suit is no bar on the revenue authorities to conduct enquiry on the application. The Tahsildar rejected the application of the petitioner due to pendency of the civil suit and order of status quo passed by the Hon'ble High Court. In support of his contentions, he relied upon the following decisions:

- (i) In State of Punjab v. Bhag Singh (2004) 1 SCC 547, para No.6.
- (ii) In Erukala Uma v. The Government of Andhra Pradesh and others Manu/AP/3300/2013.

- (iii) In R.Ram Reddy v. The State of Telangana and others Manu/TL/0469/2021.
- (iv) In Dendukuri Suresh Rao v. State of Telangana 2024 SCC Online TS 2442 and
- (v) In Aquadev India Ltd. v. State of A.P. 2021 SCC Online AP 2460

Finally, the learned counsel for the petitioner sought for the remanding of the matter to the 4th respondent for re-consideration afresh as per law after hearing all the parties concerned.

4. On the other hand, the learned counsel appearing for the unofficial respondent Nos.5 to 8 submits that the writ petitioner is not in possession of the subject land. The vendor of the unofficial respondents purchased the said lands through registered sale deed dated 17.10.2006. Either the unofficial respondents or their vendors are not the parties to the partition suit proceedings in O.S.No.1559 of 2006 as referred above. The provisions of the ROR Act cannot be misused. He refers to Section 8 of the Act, 1971 which deals with the Bar of Suits and Rule 26(6) of the Rules 1989 to say that the title deed or pass book shall be given only to those persons who are in actual possession of the land. No provision of the statute should be made redundant/otiose. If the matter is remanded to the Tahsildar/4th respondent, Section 8(2) of the above said Act becomes redundant. In support of his contention, he relied upon the following decisions:

- (i) V.Goutham Rao v. R.D.O., Jagtial 2003 (1) ALD 681.
- (ii) B.Pushpamma v. Joint Collector, R.R.District (2005) 1 ALD 260.
- (iii) Velagapudi Satyanarayana v. District Collector, Nalgonda 2000 (6) ALD 153.
- (iv) Musku Mallaiah v. State of A.P. 2005(1) ALD 485
- (v) Hardeep Singh v. State of Punjab(2014) 3 SCC 92.

5. In view of the above said facts and circumstances and upon consideration of the rival submissions made, it is to be seen that the 4th respondent passed the above said impugned proceedings dated 29.09.2022 on consideration of the application of the petitioner dated 14.09.2022 and the objections filed by the unofficial respondent No.6 dated 26.09.2022. He refers to the above said suit filed by the petitioner for partition of the suit schedule properties, grant of preliminary decree dated 18.06.2015 and final decree dated 28.11.2019 and he considered the objections of the unofficial respondent No.6 herein. He also observed that the unofficial respondent filed title suit in O.S.No.92 of 2021 on the file of District Court, Visakhapatnam which is pending for adjudication and the plaintiff made request not to mutate the revenue records as per the provisions of 9(i)(c)(2). He also mentioned about the interim orders in W.P.No.32176 of 2022.

6. Ultimately, upon consideration of the above said facts and circumstances mentioned in the impugned proceedings dated 29.09.2022, the pendency of the above said civil suit in O.S.No.92 of 2021, the interim orders of this Court dated

15.09.2022 in W.P.No.32176 of 2022 and the observance at the foot note of the impugned proceedings about the availability of appeal provision before the appellate authority and RDO, Bheemunipatnam under section 5 of the Act, 1971/ the 3rd respondent herein without going into merits of the case, as there is an express provision of law to file an appeal before the above said statutory authority, the petitioner is directed to file an appeal before the 3rd respondent herein, if so aggrieved by rising all the above said contentions before the said authority, within a period of four (4) weeks from the date of receipt of this order enclosing all the necessary documents in support of her claim. On receipt of the said appeal, the 3rd respondent is directed to consider and dispose of the same by hearing all the parties concerned including the petitioner, unofficial respondents and the respondent authorities concerned, giving due opportunity and the same shall be disposed of on its own merits, strictly in accordance with law, as expeditiously as possible.

7. Accordingly, the writ petition is disposed of. Interim order, if any, deemed to have been vacated. There shall be no order as to costs.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.