(2015) 10 AP CK 0013

In the Andhra Pradesh High Court

Case No : W.P. No. 17674 of 2014

Kosaraju Balaji APPELLANT

Vs

The State of Telangana and Others RESPONDENT

Date of Decision : 30-10-2015

Acts Referred:

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 10(2), 3, 3(4), 4, 4(1)
Civil Procedure Code, 1908 (CPC) — Order 21 Rule 21
Limitation Act, 1963 — Section 12, 13, 14, 15, 16

Citation : (2015) 10 AP CK 0013

Hon'ble Judges : C.V. Nagarjuna Reddy, J.

Bench : Single Bench

Advocate : V.L.N.G.K. Murthy, for the Appellant

Final Decision : Allowed

Judgement

C.V. Nagarjuna Reddy, J.—This Writ Petition is filed for a certiorari to call for the records relating to order dated 23-6-2014 of respondent No. 2 in Case No. D1/1388/2014, whereby he has confirmed the order of respondent No. 3 in Case No. C/1488/2014, dated 23-6-2014 and to quash the said orders.

2. The case of the petitioner is that Vadde Jangaiah and Vadde Sathaiah were paternal cousins; that apart from other properties, the said Jangaiah and Sathaiah owned agricultural land of Ac.4-00 in Sy. No. 304 of Poppalaguda village, Rajendranagar Mandal; that they shared the said land equally through settlement dated 27-2-1998 and consequently pattadar pass books and title deeds in respect of Ac.2-00 each were issued; that after the death of Vadde Sathaiah, respondent Nos. 9 to 11, being his wife and sons, inherited the said property; and that the names of respondent Nos. 9 to 11 have been mutated in the revenue records in respect of the said property from 1997-98. That the petitioner has purchased Ac.2-00 in Sy. No. 304/AA of Poppalaguda village, Rajendranagar Mandal vide registered document No. 5591/2005, dated

28-5-2005 from respondent Nos. 9 to 11; that after his purchase, the said property has been mutated in the pahani as pattedar and occupant in File No. D/3237/2005, dated 6-9-2005, for the years 2004-2005 and 2005-2006.

3. It is the further case of the petitioner that 17 years after mutation of the said land in favour of his vendors and nine years after mutation of his name in the revenue records in respect of the said property, Smt. Jangamma and other legal heirs of late Vadde Jangaiah - respondent Nos. 5 to 8, filed an appeal under Section 5(5) of the A.P. Rights in Land and Pattadar Passbooks Act 1971 (for short "the Act"), questioning the order of mutation dated 6-9-2005 in his favour, on the ground that late Vadde Jangaiah was the owner and possessor of the entire extent of Ac.4-00. The petitioner averred that after the death of Vadde Jangaiah, his wife i.e., respondent No. 5, got her name mutated in respect of Ac.2-00 vide proceedings No. B/3617/2002, dated 4-9-2002 and also surrendered the passbook and title deed (Patta No. 386 and Title deed No. 352488) of her husband. That respondent Nos. 5 to 8 failed to question the mutation effected in favour of Vadde Sathaiah as pattadar; and that they have questioned the consequential orders of mutation of the names of respondent Nos. 9 to 11 in File No. D/6205/2004 in the place of late Vadde Sathaiah. That the subject land was clearly recorded in the name of late Vadde Sathaiah in Form-I Register, but subsequently the records were tampered and the extent of Ac.4-00 was interpolated against the name of late Vadde Jangaiah in the revenue records; and that respondent Nos. 5 to 8 suppressed the fact that in the sale deed executed by them in favour of third parties they have shown the subject land as neighbour''s land. That respondent No. 3/appellate authority, without supplying a copy of the remarks of respondent No. 4 to the petitioner and without giving any opportunity to contradict the same, has placed undue reliance on the said remarks, wherein a finding was recorded that mutation in respect of the subject land in favour of late Vadde Sathaiah was effected fraudulently. That respondent No. 3/appellate authority hurriedly and without giving opportunity to the petitioner disposed of the said appeal on 30-5-2014 and set-aside the mutation both in his and his vendors'' favour in spite of there being no explanation offered by respondent Nos. 5 to 8 for the delay of 17 years by way of filing an application for condoning the said delay; and that though he was transferred on 3-6-2014, respondent No. 3 passed the order by ante-dating the same. That questioning the said order, the petitioner filed Revision Petition under Section 9 of the Act before respondent No. 2 on 7-6-2014 along with an application seeking suspension of the order of respondent No. 3; that respondent No. 2 passed an order of status quo on the said application; and that in W.P. No. 16199 of 2014 filed by respondent Nos. 5 to 8, this Court by order dated 16-6-2014 directed respondent No. 2 to dispose of the interim application, but by the impugned order, respondent No. 2 without considering the material on record dismissed the Revision Petition itself.

4. Respondent No. 4 filed a counter affidavit wherein it was averred that the subject land is a part of the evacuee property which is vested with the

Government under the control of Regional Settlement Commissioner, Bombay; that the custodian of the said land is the Chief Commissioner of Land Administration (CCLA), Hyderabad, Telangana State; that in compliance with order dated 13-7-1993 of this Court in W.P. No. 9600 of 1993 and the instructions in Rc. No. RSC/B/Lands/Bom/DISP/LTS/32468/79/64, dated 6-5-1964 r/w. G.O. Ms. No. 1883, Revenue Department, dated 12-1-1964, the then Joint Collector, Ranga Reddy District vide proceedings dated 16-12-1994 in File No. B/5187/1993 ordered transfer of Ac.4-00 in Sy. No. 304 of Poppalaguda in favour of Vadde Jangaiah by recording therein that on physical verification and with reference to the Village Map, Vadde Jangaiah was in physical possession of the said land and he was accordingly issued Sale Certificate dated 5-1-1995; that accordingly the name of Vadde Jangaiah has been entered in the revenue records in the year 1996-97 as pattadar and occupant in respect of the said Ac.4-00; that as seen from the entries in Form-I Register of Puppalaguda village, the names of Vadde Jangaiah and Vadde Sathaiah were recorded in Column No. 8 as owners; that there are over-writings in the column indicating the ''Extent''; that in the ''Remarks'' column it was mentioned that changes in the name of Vadde Jangaiah have been entered in the records based on the orders in File No. ROR/239/94, r/w. the order dated 5-1-1995 of the then Joint Collector in File No. D3/5187/1993; and that on verification of the Record Room of the Deputy Collector & Tahsildar, Rajendranagar, the said File No. ROR/239/94 was not readily available; and that the Inward Register (Application Record Register) and Personal Register were also not found in the Record Room. That according to the entries in 1-B Register (Account of Pattadar and Pattadar Pass Books Issue Register) of Puppalaguda village, it was found that Pattadar Pass Book No. 164438 and Title Deed No. 292256 were issued in favour of Vadde Jangaiah in respect of Ac.4-00 in Sy. No. 304 and Ac.4-18 gts. on Sy. No. 298 vide Khata No. 76; that the entries in the Pahani for the year 1996-97 in respect of Sy. No. 304/ A reflect the name of Vadde Jangaiah as pattadar to an extent of Ac.4-00; and that in the Pahani for the year 1997-98, Vadde Jangaiah and Vadde Sathaiah were shown as Pattadars in respect of an extent of Ac.2-00 each against Sy. Nos. 304/A and 304/AA, respectively. That on a keen observation of the entries in the pahani for the year 1997-98, certain over-writings in the ''Extent'' column were found and it was shown that the extent of Ac.4-00 was divided into two parts i.e., Ac.2-00 against each pattadar, but there was no correction in the corresponding ''Serial number'' column. That on thorough verification of the records in respect of the land in Sy. No. 304, there is no record of entry or orders from the competent authority for effecting changes in the revenue records for inserting the name of Vadde Sathaiah over the extent of Ac.2-00 by reducing the extent of holding of Vadde Jangaiah in the year 1997-98. That the entries in the pahanies for the years 1998-99 to 2003-04 show that Vadde Jangaiah and Vadde Sathaiah held Ac.2-00 each in Sy. No. 304/A and 304/AA respectively.

5. It was further averred that in File No. B/3617/2002, on the application filed by respondent No. 5, orders were passed by the Deputy Collector & Mandal Revenue

Officer, Rajendranagar, granting succession rights of late Jangaiah under the provisions of the Act in respect of Ac.2-00 in Sy. No. 304 in favour of the applicant; and that no reason is forthcoming why the applicant sought for succession rights to the extent of Ac.2-00 only instead of Ac.4-00 in Sy. No. 304, now being claimed by respondent Nos. 5 to 8. Respondent No. 4 also referred to a photocopy of the pattadar passbook and title deed issued in favour of Vadde Jangaiah s/o. Hanumaiah in respect of the land in Sy. No. 304, to the extent of Ac.2-00 vide Khata No. 386.

6. That in File No. D/6204/2005, on the application filed by respondent Nos. 9 to 11 on 24-10-2004 seeking sanction of succession of ownership rights in respect of Ac.2-00 in Sy. No. 304, the Deputy Collector & Tahsildar, Rajendranagar has granted the request on 27-1-2005 under the provisions of the Act.

7. That in File No. 3237/2005, the petitioner filed an application to the effect that he has purchased an extent of Ac.2-00 in Sy. No. 304 from respondent Nos. 9 to 11 vide registered sale deed No. 5591/2005, dated 28-5-2005 and requested mutation of his name the revenue records; that accordingly an order was passed on 6-9-2005 mutating the name of the petitioner; and that pattadar pass book and title deeds were issued recording the name of the petitioner in the pahanies from the year 2004-05.

8. Respondent No. 4 has referred to the filing of appeal by respondent Nos. 5 to 8 before respondent No. 3 against the order of mutation dated 6-9-2005 in favour of the petitioner and the revision petition filed by the petitioner before respondent No. 2 against the order of respondent No. 3 and the orders passed by the said authorities.

9. Respondent No. 4 further averred that Vadde Jangaiah and others submitted representations to the then Joint Collector, Ranga Reddy District for regularisation of their possession over the lands in Sy. Nos. 299 and 300 among other lands; that vide proceedings dated 16-12-1994 orders were issued granting permission for transfer of certain agricultural lands in favour of the local tenants on payment of market value @ Rs. 450/- per acre in terms of the orders of the Regional Settlement Commissioner, Bombay, including the land in Sy. No. 304 in favour of Vadde Jangaiah. That as per the revenue records, Vadde Sathaiah was only an encroacher over a small extent of land; that respondent Nos. 9 to 11 were not in continuous possession; that the provisions of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1956 are not applicable to the lands in question and that therefore respondent Nos. 9 to 11 are not entitled for allotment of land.

10. Respondent No. 4 has further averred that as per the Protected Tenancy Register of Puppalaguda village, there are no protected tenants of the evacuees; that vide letter No. 25(1)/75-SSIL, dated 25-4-1980, the Government of India took a policy decision to surrender all the evacuee properties to the State Government upon payment of a certain percentage of the value of the

properties; that the order passed by the then Joint Collector, Ranga Reddy District transferring the land in Sy. No. 304 among other lands in Sy. Nos. 299 and 300 of Puppalaguda village are subsequent to the said decision of the Government of India; that by virtue of the said letter all the disputes over the lands/properties dealt with by the Custodian of the evacuee property under the Administration of Evacuee Property Act 1950 and which have not yet been finally disposed of under the said Act or the Displaced Persons (Compensation & Rehabilitation) Act 1954, stand transferred to the Government of Andhra Pradesh w.e.f. 1-6-1980 and all such properties vest with the State Government; that the instructions issued by the Regional Settlement Commissioner, Bombay vide Lr. No. RSC(B) Land/BOM/DISP/LTS/332468-79/1964, dated 6-5-1964 ceased to have any effect; and that therefore the proceedings dated 16-12-1994 in File No. D3/5187/1993, of the Joint Collector, regularising the possession of respondent Nos. 9 to 11 are not sustainable in law. That the Collector, Ranga Reddy District, has addressed letters dated 1-6-2007 and 23-6-2011 in File Nos. E3/4070/2006 and E3/4891/2006 respectively, requesting the Government to review and cancel order dated 16-12-1994 of the then Joint Collector in respect of Ac.99-04 gts., in various survey numbers, including the lands in Sy. No. 304 and that the said letters are pending before the Government.

11. On behalf of respondent Nos. 5 to 8, respondent No. 6 filed a counter-affidavit wherein they have traced their title to Ac.4-00 of land in Sy. No. 304 of Poppalaguda village, comprising Ac.2-00 being claimed by the petitioner, to the proceedings dated 16-12-1994 of the then Joint Collector, Ranga Reddy District in File No. D3/5187/1993, whereby on payment of land rate fixed by the Government of India i.e., transfer charges of Rs. 1800/- vide Bank Challan No. 006570, dated 28-10-1994 and lease amount of Rs. 704/- vide Bank Challan No. 006571, dated 28-10-1994 by Vadde Jangaiah, Sale Certificate dated 5-1-2005 was issued and the consequent mutation of the said land in favour of Vadde Jangaiah as pattadar, owner and occupant in the revenue records was effected. It was averred that Vadde Sathaiah managed the Patwari of the village and got his name recorded as pattadar and occupant over the land in Sy. No. 304/AA in an extent of Ac.2-00, by reducing the holding of Vadde Jangaiah from Ac.4-00 to Ac.2-00 without any notice or order from the competent authority and that the said entries continued for the years 1998-99, 2000-2001, 2001-2002, 2002-2003 and 2003-2004. That based on the said fraudulent entries in the revenue records, after the death of Vadde Sathaiah, respondent Nos. 9 to 11 have also managed the revenue authorities and got succession rights sanctioned by the Deputy Collector and Mandal Revenue Officer, Rajendranagar in File No. D/6205/2004, dated 27-12-2005 in respect of the said land in connivance with the petitioner to usurp the land held by Vadde Jangaiah, and sold the same to the petitioner through registered sale deed No. 5591/2005, dated 28-5-2005, who got his name mutated in the revenue records in File No. D/3237/2005, dated 6-9-2005. That in the sale deed executed by respondent Nos. 9 to 11 in favour of the petitioner, there is a recital to the effect that the then Joint

Collector, Ranga Reddy District, by order dated 16-12-1984, allotted Ac.4-00 of land in Sy. No. 304 in favour of Vadde Jangaiah, but there is no mention therein as to how Vadde Sathaiah acquired Ac.2-00, except mentioning that the CCLA, vide Ref. No. SEP3/183/90, dated 25-9-2002 directed the Collector, Ranga Reddy District to regularise Ac.2-00 of land in favour of Vadde Sathaiah, the younger brother of Vadde Jangaiah; that, but from the said proceedings of the CCLA, it is seen that no such instructions were issued to the Collector, Ranga Reddy District; and that the said recitals in the sale deed executed in favour of the petitioner are false, fabricated and created for the purpose of the said sale transaction based on the fraudulent entries made in the revenue records.

12. It was further averred that immediately after coming to know about the fraudulent entries effected in the revenue records in respect of the land in Sy. No. 304/AA to the extent of Ac.2-00, respondent Nos. 5 to 8 approached the Mandal Revenue Officer for issue of ''No Objection Certificate'' for Ac.4-00 of land in Sy.304/AA and obtained certified copies of pahanies from 1995-96 onwards and other documents on 2-4-2014 and preferred appeal before respondent No. 3, within the period of limitation from the date of knowledge and also from the date of receipt of certified copies of the documents. They have also referred to the order of respondent No. 3 allowing their appeal. They have denied that the petitioner was not given sufficient opportunity to contest the appeal by stating that he has filed his counter before respondent No. 3 in the appeal through his counsel and that the appellate authority has passed orders after taking into consideration the counter of the petitioner and respondent Nos. 9 to 11 as well. They have also sought to support the order passed by respondent No. 2 in the Revision Petition filed by the petitioner against the order of respondent No. 3 in the appeal. The contesting respondents further averred that there was no allotment of land in favour of Vadde Sathaiah as per the proceedings of the Joint Collector dated 16-12-1994 and that the petitioner has not placed any document of transfer of title in favour of Vadde Sathaiah issued by the competent authority under the Act. It was further averred that the sale deed executed by respondent Nos. 9 to 11 in favour of the petitioner is not sustainable in law.

13. On behalf of respondent Nos. 9 to 11, respondent No. 11 filed a counter affidavit, wherein it was pleaded that Vadde Sathaiah and Vadde Jangaiah were cousin brothers; that the lands in Sy. Nos. 298 to 307 of Puppalaguda village were declared as evacuee property and that the same were not allotted to any displaced person. It was further averred that the grand father of respondent Nos. 6 to 8 i.e., Vadde Hanumaiah and the grand father of respondent Nos. 10 and 11 i.e., Vadde Venkaiah used to cultivate the land admeasuring Ac.4-00 in Sy. No. 304 and also the land admeasuring Ac.18.36 guntas in Sy. No. 298. That after the demise of Hanumaiah and Venkaiah, Jangaiah and Sathaiah came into possession of the lands and cultivated the same; that the Regional Settlement Commissioner, Bombay in File No. D3/5187/93, dated 16-12-1994 passed orders duly transferring the title in respect of Ac.9-18 guntas each in Sy. No. 298 and Ac.4-00 in favour of Jangaiah. That by inadvertence, only the name of Vadde

Jangaiah was mentioned in respect of Ac.4-00 instead of both the names of Jangaiah and Sathaiah; that Vadde Sathaiah having realised the discrepancy applied to the Tahsildar for mutation of both their names in respect of Ac.2-00 each to ensure confirmation of their rights, title and interest in the said land which is in his exclusive possession; that Vadde Sathaiah and Vadde Jangaiah also entered into Settlement Deed dated 27-2-2008 duly confirming their respective right, title and interest with regard to Ac.2-00 each in Sy. No. 304; that pursuant to the said application, the Tahsildar issued Pattadar Passbooks and title deeds Nos. 385 and 386 in their favour and that necessary amendment was also carried out in Form-I and I-B Registers duly incorporating the names of Vadde Sathaiah and Vadde Jangaiah as pattadars. It was further averred that after the death of their father Sathaiah, the names of respondent Nos. 9 to 11 were recorded as pattadars and possessors by virtue of orders in proceedings No. D/6205/2004, dated 27-2-2005, and the authorities, after verification, issued pass books and title deeds vide patta Nos. 565 to 567, with pass book and title deed Nos. 416192, 416193 and 416194 respectively; that respondent Nos. 5 to 8 are not entitled to claim any interest in respect of Ac.2-00 in Sy. No. 304; and that they have sold the said land to the petitioner through registered sale deed dated 28-5-2005 in their own right.

14. I have heard Mr. V.L.N.G.K. Murthy, learned Counsel for the petitioner, the learned Government Pleader for Revenue (TS) and Mr. E. Madan Mohan Rao, learned Counsel for respondent Nos. 5 to 8 at length and perused the record.

15. The learned Counsel for the petitioner has forcefully submitted that an appeal under Section 5(5) of the Act shall be filed within 60 days from the date of communication of the order or decision of the recording authority either making the amendment in the record of rights or refusing to make such amendment; that Section 10(2) of the Act made provisions of Sections 5 and 12 to 24 of the Limitation Act, 1963 (for short "the Limitation Act") applicable for the purposes of extension of computation of periods prescribed in Sections 3(4) , 4(1) , 5(5) , 5-A and 5-B of the Act; and that admittedly respondent Nos. 5 to 8 have not made any application before respondent No. 3 for condonation of the inordinate delay in filing the appeal nor respondent No. 3 has considered the aspect of delay and condoned the same. The learned Counsel further submitted that even if fraud was allegedly committed in mutation of the name of Vadde Sathaiah in the pahanies, in granting succession to respondent Nos. 9 to 11 and also in mutating the name of the petitioner in the revenue records, respondent Nos. 5 to 8 were bound to satisfy the requirements of Section 17 of the Limitation Act. He has further submitted that it is not sufficient for respondent Nos. 5 to 8 to prove that respondent Nos. 9 to 11 have committed fraud, but they must also prove that the petitioner who is the vendee from respondent Nos. 9 to 11, is also a party to the fraud; that far from alleging that the petitioner was a party to the alleged fraud, respondent Nos. 5 to 8 in categorical terms pleaded before respondent No. 3 that the petitioner was the victim of fraud at the hands of respondent Nos. 9 to 11 and that therefore the benefit of Section 17 of the

Limitation Act is not available to respondent Nos. 5 to 8. The learned Counsel further submitted that even otherwise, to invoke the benefit of Section 17 of the Limitation Act, respondent Nos. 5 to 8 must not only plead but also prove the actual date of knowledge of the alleged fraud and also that despite reasonable diligence they could not have discovered fraud earlier than they did and that the facts of the case clearly show that if respondent Nos. 5 to 8 had knowledge of the alleged fraud or at least they could have detected the same if they have shown reasonable diligence long time back. He has taken this Court through various circumstances in support of his submission that if they have displayed reasonable diligence, respondent Nos. 5 to 8 could have detected the mutation and change of entries much earlier in point of time.

16. Mr. E. Madan Mohan Rao, learned Counsel for respondent Nos. 5 to 8, while strongly opposing the submissions of the learned Counsel for the petitioner, submitted that fraud vitiates everything and that since his clients have filed an appeal before respondent No. 3 from the date of knowledge of fraud, the appeal cannot be treated as time barred. He has taken the Court through various factual aspects to buttress the plea of respondent Nos. 5 to 8 that by playing fraud, Vadde Sathaiah, the predecessor-in-title of respondent Nos. 9 to 11, has got his name mutated in the pahanies from the year 1997-98 and that respondent Nos. 9 to 11 have fraudulently got succession in their favour on 27-1-2005 and having sold the land to the petitioner, they have also got his name mutated on 6-9-2005. He has further submitted that recently when respondent Nos. 5 to 8 have applied for NOC, the above mentioned fraudulent acts have come to light and that immediately thereafter, they have filed the appeal before respondent No. 3. The learned Counsel has referred to and relied upon the Judgments in Madan Lal Vs. State of U.P. and Others, , Vishwa Vijay Bharati Vs. Fakhrul Hassan and Others, , A.V. Papayya Sastry and Others Vs. Government of A.P. and Others, , Chinnam Pandurangam Vs. Mandal Revenue Officer, Serilingampally Mandal, Ranga Reddy District and others 2008 ALT (Revenue) 18 (FB) , Pochi Reddy Vs. The Revenue Divisonal officer, Vikarabad Division, The M.R.O., Pudur Mandal and Dhanraj Singh, and Kashi Ram Vs. Harbhajan Singh Bhajji, .

17. In order to appreciate the submissions of the learned Counsel for the parties, it is necessary to note the relevant provisions of the Act.

18. Section 3 of the Act envisages Preparation and updating of record of rights in all lands. Under these provisions, record of rights shall contain the details such as the names of all persons who are owners, pattadars, mortgagees, occupants or tenants of lands; the nature and extent of the respective rights or interest of such persons and the conditions or liabilities, if any, attaching thereto; the rent, revenue or other amount, if any, payable by, or to any of such persons etc. Under sub-section (2) thereof, after preparation of record of rights is completed, the fact of such completion shall be notified in the Andhra Pradesh Gazette. Under sub-section (3), any person affected by any entry in such record of rights

may, within a period of one year from the date of the notification apply for rectification of the entry to such officer as may be prescribed. The officer may, after such enquiry as may be prescribed, give his decision on such application and direct rectification of the record of rights which shall, subject to the provisions of Section 9 , be final. Under Section 4 , any person acquiring by succession, survivorship, inheritance, partition, Government patta, decree of a Court or otherwise any right as owner, pattadar, mortgagee, occupant or tenant of a land and any person acquiring any right as occupant of a land by any other method shall intimate in writing his acquisition of such right to the Mandal Revenue Officer within ninety days from the date of such acquisition, and the Mandal Revenue Officer shall give or send a written acknowledgement of the receipt of such intimation to the person making it.

19. Under Section 5 of the Act, on receipt of intimation of the fact of acquisition of any right referred to in Section 4 , the Mandal Revenue Officer shall determine as to whether, and if so in what manner, the record of rights may be amended in consequence therefor and shall carryout the amendment in the record of rights in accordance with such determination. Under sub-section (2) thereof, if the Mandal Revenue Officer has reason to believe that such acquisition of right has taken place, he shall carryout the amendment in the record of rights. However, before carrying out of such amendment in the record of rights, he shall issue notice to all persons whose names are entered in the record of rights and who are interested in or affected by the amendment and to any other persons whom he has reason to believe to be interested therein or affected thereby to show cause within the period specified therein as to why the amendment shall not be carried out. The recording authority shall consider every objection made in that behalf and after making such enquiry as may be prescribed pass such other order in relation thereto as he deems fit. Every order passed under this provision shall be communicated to the person concerned. Sub-section (5) of Section 5 of the Act provides for an appeal against every order of the recording authority either making an amendment in the record of rights or refusing to make such amendment to such authority as may be prescribed within 60 days fro the date of communication of the said order and the decision of the appellate authority thereon shall subject to the provisions of Section 9 , be final.

20. In Chinnam Pandurangam Vs. The Mandal Revenue Officer, Serilingampally Mandal, M. Ravindra Babu, Mandal Revenue Officer, Serilingampally Mandal and Chinnam Narsimlu, , the Full Bench held, at para-7, as under:

"The above analysis of the relevant statutory provisions shows that proviso to Section 5(1) and Section 5(3) represent statutory embodiment of the most important facet of the rules of natural justice i.e., audi alteram partem. These provisions contemplate issue of notice to the persons likely to be affected by the action/decision of the Mandal Revenue Officer to carry out or not to carry out amendment in the Record of Rights. Proviso to Section 5(1) lays down that if the Mandal Revenue Officer decides not to make an amendment in the Record of

Rights, then he shall pass appropriate order only after giving an opportunity of making representation to the person, who gives intimation regarding acquisition of any right referred to in Section 4 . Section 5(3) provides for issue of written notice to all persons whose names are entered in the Record of Rights and who are interested in or affected by the amendment. Similarly, a notice is required to be issued to any other person whom the recording authority has reason to believe to be interested in or affected by the amendment. A copy of the amendment and the notice is also required to be published in the prescribed manner. The publication of notice in the prescribed manner is in addition to the notice, which is required to be given in writing to all persons whose names are entered in the Record of Rights and who are interested in or affected by the amendment and also to any other person whom the recording authority has reason to believe to be interested in or affected by the amendment. To put it differently, the publication of a copy of the amendment and the notice is only supplemental and not the alternative mode of giving notice to the persons whose names are entered in the Record of Rights and who are interested in or affected by the amendment and to any other person to whom the recording authority has reason to believe to be interested in or affected by the amendment. If the Legislature thought that publication of a general notice in Form-VIII will be sufficient compliance of the rules of natural justice, then there was no occasion to incorporate a specific requirement of issuing written notice to the persons whose names are entered in the Record of Rights and who are interested in or affected by the amendment and also to other person whom the recording authority has reason to believe to be interested in or affected by the amendment by the amendment. In our considered view, the requirement of issuing written notice to the persons whose names are entered in the Record of Rights and who are interested in or affected by the amendment and also to any other person whom the recording authority thinks to be interested in or affected by the amendment clearly negates the argument that publication of notice in Form-VIII is sufficient."

21. As noted hereinbefore, it is the pleaded case of respondent Nos. 5 to 8 that incorporation of the name of Vadde Sathaiah in the pahanies from the year 1997-98, succession rights issued in favour of respondent Nos. 9 to 11 on 27-01-2005 and the consequential mutation of their names in the record of rights were not preceded by notice to them. It is also their pleaded case that no order was passed by the competent authority before the entries in the record of rights were altered. That respondent No. 3, based on the remarks received from respondent No. 4, has concluded that the records relating to mutation in favour of Sathaiah were not traceable, that the procedure envisaged under Rule 5 of the A.P. Rights in Land and Pattadar Pass Books Rules, 1989 was not followed and that therefore the mutation in the name of Sathaiah and the issue of succession certificate in favour of respondent Nos. 9 to 11 were vitiated by fraud.

22. The law of limitation is envisaged to bring certainty to litigation and prevent people from reviving stale claims (See: Maniben Devraj Shah Vs. Municipal

Corporation of Brihan Mumbai, , State of Andhra Pradesh and Others Vs. A. Murali Madhava Rao and Others, , Jangana Rajendra Kumar Vs. Basava Srinivas, . The power of the appellate authority under sub-section (5) of Section 5 of the Act to entertain an appeal against the order made or decision taken is circumscribed by the law of limitation. While a period of 60 days is prescribed for filing an appeal, the provisions of Sections 5 and 12 to 24 of the Limitation Act have been made applicable by Section 10(2) of the Act. Under Section 5 of the Limitation Act, a time barred appeal or application other than an application under any of the provisions of Order XXI of the Code of Civil Procedure 1908 may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had ''sufficient cause'' for not preferring the appeal or making the application within such period. Part-III of the Limitation Act provides for exclusion of time in computation of period of limitation and also certain other aspects in this regard. Section 17 of the Limitation Act falling under this Part, specifically deals with the effect of fraud or mistake. As the outcome of this case mainly turns on this provision, it is instructive to extract the same hereunder:

Effect of fraud or mistake:

(1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act,-

(a) the suit or application is based upon the fraud of the defendant or respondent or his agent; or

(b) the knowledge of the right or title on which a suit or application is founded is concealed by the fraud of any such person as aforesaid; or

(c) the suit or application is for relief from the consequences of a mistake; or

(d) where any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him,

the period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it; or in the case of concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production:

Provided that nothing in this section shall enable any suit to be instituted or application to be made to recover or enforce any charge against, or set aside any transaction affecting, any property which-

(i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believe, that any fraud had been committed, or

(ii) in the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know, or have reason to believe, that the mistake had been made, or

(iii) in the case of a concealed document, has been purchased for valuable consideration by a person who was not a party to the concealment and, did not at the time of purchase know, or have reason to believe, that the document had been concealed.

(2) Where a judgment-debtor has, by fraud or force, prevented the execution of a decree or order within the period of limitation, the court may, on the application of the judgment-creditor made after the expiry of the said period extend the period for execution of the decree or order:

Provided that such application is made within one year from the date of the discovery of the fraud or the concession of force, as the case may be.

From the provisions of Section 17 as quoted hereinbefore, the period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or mistake or with reasonable diligence could have discovered it or in the case of a concealed document until the plaintiff or the applicant had the means of producing the concealed document or compelling its production. Even if the plaintiff or the applicant satisfies the above mentioned requirements, the alleged fraudulent transaction is not liable to be set-aside if the property was purchased for valuable consideration by a person who was not a party to the fraud and who did not at the time of purchase know or has reason to believe that any fraud had been committed. Therefore, in order to maintain their appeal before respondent No. 3 beyond the period of 60 days, it was incumbent upon respondent Nos. 5 to 8 to plead and also prove that they have filed the appeal within 60 days from the date of actual discovery of fraud or that they could not have discovered such fraud with reasonable diligence at an earlier point of time. Even if they could succeed in doing so and also in establishing that there was fraud on the part of respondent Nos. 9 to 11, still, the transaction cannot be set-aside unless it is proved that the petitioner had knowledge of, and was a party to the alleged fraud.

23. In paragraph-13 of their appeal, respondent Nos. 5 to 8 averred that they came to know about the fraudulent entries in the revenue records in respect of Ac.2-00 in Sy. No. 304/AA made from 1997-98 onwards when they approached the Mandal Revenue Officer for issue of NOC for Ac.4-00 in Sy. No. 304/AA and certified copies of pahanies from 1995-96 onwards and that therefore the appeal is filed within the limitation from the date of knowledge and also within the time from the date of receipt of certified copies of documents. Thus, in effect, respondent Nos. 5 to 8 have relied upon Section 17 of the Limitation Act, though in express terms the said provision has not been referred to in their appeal. Respondent Nos. 5 to 8/appellants have however not disclosed the date on which they have applied for the purported NOC for Ac.4-00 of land. To improbablise the making of any such application for NOC for Ac.4-00, the learned Counsel for the petitioner has placed before the Court certain facts, which are not disputed by the learned Counsel for respondent Nos. 5 to 8. They are:

(i) That as far back as 30-11-2002, respondent No. 5 along with her sons and daughters has sold an extent of Ac.1-00 forming part of the total extent of Ac.4-00 in Sy. No. 304 to one K. Rajeswari under registered sale deed.

(ii) That respondent No. 5 along with her sons and daughters, has also executed registered Agreement of Sale-cum-General Power of Attorney with possession in favour of Smt. S. Sridevi on 30-11-2002 in respect of one more acre forming part of Ac.4-00 and the said Sri Devi in turn has sold the said land under registered sale deed dated 8-2-2006 to Smt. K. Radhika w/o. K. Srinivas Rao. The petitioner filed copies of registered sale deeds and the Agreement of Sale-cum-General Power of Attorney with possession which remained uncontroverted.

(iii) That as respondent Nos. 5 to 8 have already sold away an extent of Ac.2-00 out of Ac.4-00, there was neither need nor cause for them to apply for NOC for Ac.4-00 and that therefore the plea that they detected the alleged fraud when they applied for NOC is wholly false.

The other submission advanced by the learned Counsel for the petitioner is that respondent Nos. 5 to 8 are presumed to have knowledge of the alleged fraud. In support of his submission, the learned Counsel has enumerated the following instances:

(i) The revenue entries are being made since 1997-98 in the name of Vadde Sathaiah.

(ii) On 19-7-2002, respondent No. 5 has applied for issue of pattadar passbooks for only Ac.2-00 as all her sons and daughters have filed affidavits wherein they have categorically asserted that their father late Jangaiah was the pattadar of the land in Sy. No. 304 to the extent of Ac.2-00 and that as their father expired they would like to have the name of their mother (respondent No. 5) recorded in the revenue records and that they have no objection for issuance of new pattadar passbook in respect of the said extent of land in favour of their mother.

(iii) Respondent No. 5 along with her application for succession enclosed pattadar passbook issued in the name of her husband Jangaiah only for Ac.2-00 and also Sale Certificate issued in his favour for Ac.4-00;

(iv) In the Agreement of sale-cum-General Power of Attorney with possession entered into on 2-4-2014 executed by respondent Nos. 5 to 8 in favour of one Srujan Linga s/o. L. Jaya Reddy in respect of Ac.2-00 of the land in dispute, there is a reference to agreement of sale dated 6-1-2004 allegedly entered by respondent Nos. 5 to 8 in favour of one A. Anandam and five others described as "consenting parties" and that on each of the above occasions, respondent Nos. 5 to 8 could have easily come to know about the alleged fraudulent entries made in favour of Vadde Sathaiah from the year 1997-98 and the succession taken place in favour of respondent Nos. 9 to 11 and the mutation made in favour of the petitioner in the year 2005.

24. I find the submissions of the learned Counsel for the petitioner based on the above noted instances well founded. Firstly, neither the details such as the date

when the application for NOC for Ac.4-00 was made are disclosed nor a copy of the purported application was filed by respondent Nos. 5 to 8. Secondly, there was absolutely no possibility of respondent Nos. 5 to 8 applying for NOC for Ac.4-00 as they have sold Ac.2-00 out of Ac.4-00 by 2006 itself. More interesting is respondent No. 5 applying for and obtaining succession only in respect of Ac.2-00. No explanation whatsoever is forthcoming from respondent Nos. 5 to 8 as to why they have confined the claim for succession to only Ac.2-00 though they were well aware of the fact that Vadde Jangaiah has obtained Sale Certificate for Ac.4-00 on 5-1-1995, a copy of which was enclosed by respondent No. 5 along with her application for succession certificate in respect of Ac.2-00 only. Therefore, it is reasonable to presume that respondent No. 5 was very much in knowledge of the fact that her husband had only Ac.2-00 in Sy. No. 304/AA of Poppalaguda village and this presumption is further fortified by the fact that all her sons and daughters have filed their affidavits conveying their ''no objection'' for incorporating her name in the revenue records and issue of pattadar passbook only for the said extent. It may not be out of context to reproduce the affidavit of respondent No. 6 and E. Satyanarayana, the sons of respondent No. 5, which reads as under:

"We, E. Krishna & E. Satyanarayana, both sons of late Jangaiah, r/o. Kokapet village, Rajendranagar Mandal, Ranga Reddy District, do hereby solemnly affirm and state on oath as follows:-

That we are the Deponent herein as such state on oath that our father late Jangaiah was the pattadar of the land in Sy. No. 304 situated at Puppalaguda village, to the extent of Ac.2-00 gts, Rajendranagar Mandal, Ranga Reddy District.

That as my father had expired we would like to change the name in Pahani''s & issue new Patta Pass Books, on the name of our mother E. Jangamma & we have no objection doing so.

That we execute this Affidavit before the concerned Revenue Authorities for issue of the same.

That the above stated contents are true and correct to the best of our knowledge and belief and nothing is concealed therein."

(Emphasis added)

Respondent No. 7 has also filed an identical affidavit. From these uncontroverted facts, the theory set up by respondent Nos. 5 to 8 that they were under the impression that Vadde Jangaiah was the registered holder of Ac.4-00 of land until they applied for the so-called NOC for Ac.4-00, is wholly incredulous. Indeed, as pleaded by the learned Counsel for the petitioner, it is not possible to accept the plea of respondent Nos. 5 to 8 that though the name of Vadde Sathaiah was incorporated in the pahanies from 1997-98 continuously till succession in favour of his wife and her sons (respondent Nos. 9 to 11) was made in the year 2005 and the name of the petitioner was mutated in the year 2005, the same was not in their knowledge till the year 2014. The revenue records being public documents, the persons who claim to be the true owners of the land cannot feign ignorance of entries in pahnies and Forms I and I-B Registers which constitute record of rights, for more than 1 1/2 decades even in the absence of receipt of personal notices before effecting mutation. Even if respondent Nos. 5 to 8 chose to close their eyes to the series of changes taken place in the revenue records starting from 1997-98, no purchaser would keep quiet without verification of the title and antecedents of the property with reference to the revenue records. As noted above, Ac.1-00 each was sold to third parties in the years 2002 and 2006 and if the agreement of sale was really entered into on 6-1-2004 for the balance extent of Ac.2-00 which is the subject matter of the present dispute, in favour of A. Anandam and five others, as recited in the registered Agreement of sale-cum-General Power of Attorney with possession, dated 2-4-2014, at least on that occasion, respondent Nos. 5 to 8 and their vendees would have had an opportunity to obtain copies of the revenue records if they have displayed any semblance of reasonable diligence. It is thus demonstrable from the aforementioned facts that Jangaiah had only Ac.2-00 of land in respect of which they sought for succession. At any rate, they had every opportunity of discovering the alleged fraudulent mutation latest in 2004 when an agreement of sale was claimed to have been executed by them, if they have displayed reasonable diligence. Hence, I am of the opinion that respondent Nos. 5 to 8 could not succeed in establishing that the period of limitation for filing the appeal did not begin to run till a few days before they filed the appeal. Therefore, the plea raised by them before respondent No. 3 that their appeal was within time as the alleged fraud was detected just before the filing of the appeal does not merit acceptance.

25. Though specific objection was raised by the petitioner about the long and inordinate delay in filing the appeal, respondent No. 3 who has adverted to the said objection in his order has nevertheless failed deal with the same. Unless the plea of respondent Nos. 5 to 8 on the discovery of the alleged fraud was accepted and a specific finding was rendered by respondent No. 3, he was denuded of his jurisdiction to deal with the appeal on merits.

26. The learned Counsel for respondent Nos. 5 to 8 placed heavy reliance on the Judgment in S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. and others, in support of his submission that an order obtained by fraud is a nullity and that any court or forum can set-aside such an order at any point of time. In that case, the Supreme Court has referred to the famous quotation of Chief Justice Edward Coke of England that "Fraud avoids all judicial acts, ecclesiastical or temporal" and observed that "It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eye of law and that such a judgment or decree by the first court or by the highest court has to be treated as nullity by every court whether superior or inferior and that it can be challenged in any court or even in collateral proceedings."

27. In order to deal with the submission of the learned Counsel based on the Judgment in S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. and others, , the brief facts therein need to be discussed. The respondent in that case was working as a clerk with a third party, who has obtained a decree against the appellants therein. In execution of the decree, the respondent purchased at court sale the properties belonging to the appellants on behalf of the third party. Later, by a registered deed, the respondent relinquished all his rights in the property in favour of the third party. Meanwhile, the appellants paid the decretal amount to the third party. The respondent, without disclosing his execution of the release deed in favour of the third party, filed a suit for partition of the property and obtained a preliminary decree. Thereafter, he filed an application for a final decree. During the hearing of that application, the appellants came to know about the release deed and want of locus standi of the respondent. They have therefore contested the application for passing of final decree on the ground that non-disclosure of the vital document by the respondent, namely, the relinquishment deed in favour of the third party, vitiated the suit proceedings and that as such the preliminary decree obtained by playing fraud on the court was a nullity. It is in this context that the above observations were made by the Supreme Court.

28. Pausing here before reverting to the Judgment in S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. and others, , I feel it appropriate to refer to the finding of respondent No. 3 on the alleged fraud. Respondent No. 3 has heavily relied upon the report dated 12-5-2004 of the Deputy Collector & Tahsildar, Rajendranagar, to the effect that no supporting record and evidence is available in the office as to how the name of Vadde Sathaiah has been inserted as pattadar and occupant over the land in Sy. No. 304 to the extent of Ac.2-00 along with the name of Vadde Jangaiah and that in the pahanies for the year 1997-98 and Form-I record of rights Register and concluded that those entries are nothing but fraudulent entries made by the Village Administrative Officer in collusion with Vadde Sathaiah. Based on this report, respondent No. 3 has inter alia observed at para-21 as under:

"....After going through these two files No. D/6205/2004 and D/3237/2005 and reported case in Chinnam Pandurangam Vs. The Mandal Revenue Officer, Serilingampally Mandal, M. Ravindra Babu, Mandal Revenue Officer, Serilingampally Mandal and Chinnam Narsimlu, of the Full Bench of the Hon''ble High Court, it is found that there is a force in the arguments of the learned Counsel for the Appellants and come to a conclusion that there are procedural and material irregularities in sanctioning the succession in favour of the respondent Nos. 2 to 4 herein by the Deputy Collector & Mandal Revenue Officer, Rajendranagar in the orders dated 27-1-2005 in File No. D/6205/2004 and also in grant of mutation in favour of the respondent No. 5 in File No. D/3237/2005 dated 6-9-2005 and these two orders are required to be set-aside for not following mandatory provision of law and Rule of audi alteram partem."

In para-26, respondent No. 3 further observed:

"Since it is established beyond reasonable doubt that the entries which were crept up in the pahani 1997-98 recording the name of Vadde Sathaiah as pattedar and occupant over an area of Ac.2-00 against land in Sy. No. 304 of Poppalaguda village, is nothing but a fraudulent entry and by virtue of CCLA Circular instructions in Re. No. ROR/128/1999, dated 14-10-1999 it is hereby ordered for rectification of these entries in the pahanies right from 1997-98 to 2003-2004 and also ROR Register I-A for deletion of names of Vadde Sathaiah as a pattadar and occupant over an extent of Ac.2-00 against the land in Sy. No. 304/AA of Poppalguda village and to incorporate the name of Vadde Jangaiah as pattedar and occupant over an area of Ac.4-00 of land as per the sale certificate issued by the Joint Collector, Ranga Reddy District dated 05-01-1995 instead of Ac.2-00 from 1997-98 to 2003-2004 and also as per the orders of the Mandal Revenue Officer, Rajendranagar Mandal, dated 29-05-1995 in File No. ROR/239/94."

In para-27, respondent No. 3 held as under:

"Secondly there are procedural and material irregularities found as discussed in sanctioning the succession in favour of respondent Nos. 2 to 4 herein in File D/6205/2004 dated 27-1-2005 and also in sanction of mutation in favour of respondent No. 5 in File No. D/3237/2005 dated 6-9-2005 and there(fore) it is hereby ordered to set-aside these orders in the interest of natural justice by allowing the appeal filed by the appellants herein which is in violation of Rule of audi alteram partem."

29. As could be seen from the above, the main ground on which respondent No. 3 has concluded that incorporation of the name of Vadde Satiahaih and mutation in favour of the petitioner was fraudulent and irregular was that the same were in violation of the procedure and that this was obviously done in collusion between the Village Administrative Officer and the Vadde Sathaiah. Respondent No. 3 has virtually equated the alleged procedural illegality with fraud. In my opinion, every illegality, either procedural or substantive, does not constitute an act of fraud. Even if the available record does not support the incorporation of the name of Vadde Sathaiah, at best, the same constitutes an illegality. In order to term the same as fraud, respondent Nos. 5 to 8 have not only to allege but also to prove mens rea or bad faith on the part of Vadde Sathaiah and also the revenue functionaries concerned. No evidence has been produced by respondent Nos. 5 to 8 to establish such bad faith on the part of Vadde Sathaiah. On the contrary, as discussed herein before, the conduct of respondent Nos. 5 to 8 clearly suggested that they were very much in knowledge of the fact that Vadde Jangaiah had only Ac.2-00 of land in Poppalaguda village and that was the obvious reason why they did not raise the issue of incorporation of the name of Vadde Sathaiah in the revenue records and the subsequent mutation proceedings in favour of the petitioner, for a long period of about 17 years. Therefore, the finding rendered by respondent No. 3 that Vadde Sathaiah played fraud and got

his name incorporated in the revenue record is not supported by sufficient material, and is wholly without any basis.

30. In contrast to the facts of this case, in S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. and others, , fraud was pleaded during the final decree proceedings by the aggrieved parties therein immediately on coming to know about the fact that the respondent therein has relinquished his rights over the property purchased by him in court auction in favour of the third party. Indeed, in that case, the issue of limitation did not fall for consideration. When a provision is made in the Limitation Act dealing with the effect of fraud or mistake, the court or a forum while entertaining a time barred appeal is bound to exercise its jurisdiction within the confines of such provision. Otherwise, the very object of prescribing limitation would be rendered nugatory. Respondent No. 3 therefore cannot ignore the provisions of Section 17 of the Limitation Act and entertain the appeal beyond the period of limitation on the ground of alleged fraud. Even if he was convinced that fraud was played, he had no jurisdiction to interfere with such fraudulent transaction unless the provisions of Section 17 of the Limitation Act were fully satisfied by the appellants before him.

31. As regards the submission of the learned Counsel for the petitioner that even if the appeal is entertained and decided on merits regardless of expiry of the period limitation, on the ground of the alleged fraud, respondent Nos. 5 to 8 were still not entitled to any relief as no fraud has been attributed to the petitioner, I find merit in this submission too. Under sub-clause (i) of the proviso to Section 17 of the Limitation Act, a transaction affecting any property cannot be set-aside on the ground of fraud if the property has been purchased for valuable consideration by a party who was not a party to the fraud and did not at the time of purchase know or has reason to believe that any fraud has been committed. In other words, the person who entered into a fraudulent transaction must also be imputed knowledge of as well as commission of fraud.

32. In their appeal, respondent Nos. 5 to 8 inter alia averred as under:

".....It is seen from the said CCLA clarification dated 25-09-2002 that no such instructions were issued to the Collector, Ranga Reddy District for allotment of Ac.2-00 land in Sy. No. 304 in favour of Vadde Sathaiah originally allotted and held by Vadde Jangaiah; therefore these recitals at para (3) of the sale deed No. 5591/2005 are nothing but false, fabricated one and based on the presumptions and assumptions and based on the fraudulent entries made in the revenue records. Thus these vendors of sale deed No. 5591/2005 based on the manipulated entries in the revenue records have sold away two acres of land in Sy. No. 304 of Poppalaguda village, Rajendranagar Mandal and cheated the purchaser/vendee and washed away their hands which resulted purchaser of Sale Deed No. 5591/2005 Respondent No. 5 herein put in troubles and hardship by Respondent No. 2 to 4 herein....."

(Emphasis added)

The above reproduced averments would clinchingly establish that far from attributing fraud or complicity to the petitioner, respondent Nos. 5 to 8 have even described him as the victim of the fraud allegedly committed by respondent Nos. 9 to 11. It therefore follows that the transaction in favour of the petitioner is protected by the proviso to Section 17(1) of the Limitation Act.

33. It is noteworthy that almost at the fag end of the hearing of the Writ Petition, L. Srujan, in whose favour respondent Nos. 5 to 8 claimed to have entered into the Agreement of sale-cum-General Power of Attorney, has filed WPMP No. 44098 of 2015 for his impleadment on the ground that a sale deed was executed by the latter in his favour on 2-4-2015. By a separate reasoned order, this Court has dismissed the said application. Surprisingly, at no stage of the hearing, respondent Nos. 5 to 8 have disclosed their executing the sale deed in favour of the said applicant in WPMP No. 44098 of 2015. From the record, it is also evident that two days after the Agreement of sale-cum-General Power of Attorney was executed by respondent Nos. 5 to 8 in favour of the said third party, appeal was filed before respondent No. 3. This fact would clearly indicate that the filing of the said appeal was an after-thought and the same was done at the instance of the said third party almost 17 years after mutation has taken place in favour of respondent Nos. 9 to 11.

34. It needs to be observed that though several aspects were argued by the learned Counsel for both the parties on the merits of the case such as issue of pattadar passbooks etc., it is unnecessary to delve into all these aspects in the light of the finding that the appeal filed by respondent Nos. 5 to 8 before respondent No. 3 was hopelessly time barred and that respondent No. 3 had no power or jurisdiction to entertain such appeal unless an application for condonation of delay was made by respondent Nos. 5 to 8 and such delay was condoned by respondent No. 3 for valid reasons.

35. On the analysis as above, the impugned order is quashed. The Writ Petition is allowed.

36. As a sequel to the disposal of the Writ Petition, interim order dated 27-6-2014, as extended from time to time is vacated, and WPMP No. 22124 of 2014 and WVMP No. 2120 of 2014 are disposed of as infructuous.