



GOVERNMENT OF TELANGANA  
IN THE COURT OF THE SPECIAL TRIBUNAL & COLLECTOR  
JAYASHANKAR BHUPALPALLY DISTRICT

Special Tribunal Case No.E2/2207/2022  
Rc.No.E2/1029/2019-1 & E2/1029/2019-2

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**Present: Bhavesh Mishra, IAS**  
Collector & District Magistrate, Jayashankar Bhupalpally

BETWEEN:

1. Sri Thiparthi Ravinder Reddy, S/o Buchi Reddy
2. Sri Challa Narayana Reddy, S/o Malla Reddy
3. Sri Chinnala Sambashiva Reddy, S/o Pochi Reddy

... Revision Petitioners

AND

1. Chinnala Pochireddy S/o Ramaiah
2. Janothula Chitharanjan Reddy, S/o Late Chandra Reddy
3. Smt Bommena Rajeshewari, W/o Pochireddy
4. Smt Godishala Swarupa, W/o Raji Reddy
5. Smt Thotapally Vijaya, W/o Ramesh
6. Sri Bommana Rajasekhar, S/o Pochi Reddy
7. Sri Maragoni Swamy, S/o Lingaiah
8. Sri Ravula Tirumal, S/o Raja Ram
9. Sri Loke Suresh, S/o Prabhakar
10. Smt Mulukala Sunitha, W/o Sampath
11. M/s. Hindustan Petroleum Corporation Limited, Represented by its  
Chief Regional Manager

... Respondents

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**Introduction:**

1. The Special Tribunal has been constituted as per the provisions under Section 16 of the Telangana Rights in Land and Pattedar Pass Books Act, 2020 to take up all the Appeals and Revision cases under Andhra Pradesh Rights in Land & Pattadar Passbook Act 1971.

2. In the present case, the Respondent No. 1 filed Writ Petition No. 24311 of 2019 before the Hon'ble High Court for the State of Telangana seeking to declare the order dated 29.08.2019 passed by the Joint Collector, Jayashankar Bhupalpally, in Rc.No.E2/1029/2019-1 & E2/1029/2019-2 wherein the order passed by the Revenue Divisional Officer in Case No. F/1499/2017 dated: 12.07.2019 was set aside as illegal and arbitrary.
3. Accordingly, the Hon'ble High Court has passed orders by remitting back the case to the Special Tribunal, Jayashankar Bhupalpally, for fresh consideration and to dispose of the same with the direction to ensure that while taking up the matter for disposal the Special Tribunal shall put all the parties concerned on notice and afford them a reasonable opportunity of hearing in accordance with the law.
4. In compliance of the orders given by Hon'ble High Court, all the parties were given notices, reasonable opportunity to present their case was given and the hearings were conducted on 29.08.2022, 01.10.2022, 05.11.2022, 19.11.2022, 17.12.2022, 30.12.2022 and the case came up for the final hearing on 06.01.2023. The revision petitioners, the respondents, and their learned counsels were present during the hearings and submitted their written arguments.

#### **REVISION PETITIONERS' ARGUMENTS:**

5. The learned counsel for the revision petitioners 1 to 3 argued that the Revision petitioner no.1 & 2 had originally filed a revision petition under Section 9 of Telangana Rights in Land and Pattadar Passbooks Act, 1971 against the order passed by R.D.O, Bhupalpally in Proceedings No. F/1499/2017 dated 12-07-2019 before the Joint Collector in case No.E2/1029/2019-1. Further the Revision Petitioner no.3 i.e. Chinnala Sambashiva Reddy, S/o.Late Pochi Reddy also filed another Revision Petition No. E2/1029/2019-2 against the order passed by R.D.O, Bhupalpally in Proceedings No. F/1499/2017 dated 12-07-2019.
6. The learned Counsel submitted that originally **Chinnala Mallaiah**, S/o.Balaiah was the Pattadar and possessor of the land admeasuring Ac.11-07 gts in Sy.no. 14 situated at Kambalapadu Village, Kataram Mandal, Jayashankar Bhupalpally District, and he had acquired the rights in the above-said land through his father Balaiah, and the name of the Chinnala Mallaiah was recorded as a Pattadar and possessor of the land since 1961 and his name was shown as a pattadar and possessor of the land in Sy.No. 14 till 2004. Chinnala Mallaiah

S/o. Balaiah died in 1983 and after the death of Chinnala Mallaiah his Son Chinnala Pochi Reddy's name was mutated in the Revenue Records vide file no. B1/4783/04 dated 16.11.2004 and Pattadar Passbook bearing no. 295914 with Katha no. 99 was issued to Chinnala Pochi Reddy S/o. Late Chinnala Mallaiah

7. Sri Thipparthi Ravinder Reddy S/o Buchi Reddy (RP-1) purchased the land admeasuring Ac.10-00 gts in Sy.No. 14 through sale deed document bearing no.716 of 2005 dated 24.06.2005 from Chinnala Pochi Reddy S/o. Late Chinnala Mallaiah and his name was mutated in Revenue records vide Proceedings no. B/154/2005 dated 10.08.2005 and Pattadar Passbook bearing no. 295996 with Katha no. 116 was issued to him and no appeal or revision was preferred questioning the mutation of his name in the revenue records and therefore, the said entries in the revenue records have become final.
8. In the year 2013 Chinnala Sambashiva Reddy S/o. Chinnala Pochi Reddy (RP-3) had filed a suit for declaration and recovery of possession vide O.S.No.33 of 2013 on the file of Hon'ble Senior Civil Judge, Manthini against Sri Thipparthi Ravinder Reddy S/o Buchi Reddy & others and on 31-12-2018 the same was decreed in favour of Chinnala Sambashiva Reddy. He further submitted that against the judgment and decree Sri Thipparthi Ravinder Reddy S/o Buchi Reddy has filed an appeal in A.S.No. 7 of 2019 on the file of Hon'ble VI District Judge, Godavarikhani, and the same was compromised before the Lok Adalat Bench at Godavarikhani on 19-11-2019 and as per the compromise he has accepted to give Ac.2-00 gts land out of Ac.10-00 gts in Sy.No. 14 to Chinnala Sambashiva Reddy S/o. Chinnala Pochireddy.
9. However, in the year 2017 Chinnala Pochireddy S/o. Ramaiah R/o. Chidinepalli village (R-1) represented before Tahsildar Kataram vide proceedings No.B/244/2016 informing that he is the son of Ramaiah and claimed that he has agricultural land measuring Ac.11-07 gts in Sy.no. 14 situated at Kambalapadu Village and as per Village Sethwar his father Chinnala Ramulu S/o Pochaiah is the pattadar of the land, and after the death of his father Chinnala Ramulu, due to financial problems they left the village and residing at Chiddinepally Village and he further claimed that his relative Chinnala Pochi Reddy S/o Mallaiah sold Ac. 10-00 gts out of Ac.11-07 gts in Sy.

No.14 to the revision petitioners and alleged that thereafter Chinnala Pochi Reddy S/o Mallaiah accepted his guilt and allegedly submitted an affidavit dated 20.02.2016 stating that the RP-1 & RP-2 deceived him and got the land registered in favour of RP-1 & RP-2 requested to do justice. The learned counsel submitted that the affidavit of R-1 was fabricated and was not proven and R-1 was not examined by the Tahsildar Kataram Mandal, and even otherwise also, the so-called affidavit does not carry any value as R-1 himself had executed a sale deed in the favour of RP-1 & RP-2 in the year 2005.

10. Against the said order in file No. B/244/2016 dated 29-4-2017 R-1 filed an appeal on 15-05-2017 before the Revenue Divisional Officer (RDO), Bhupalapally under Section 5(5) of Telangana Rights in Land and PPB Act 1971 vide File No. F/1499/2017 and requested to set aside the order passed by the Tahsildar Kataram vide Proceedings no. B/244/2016 dated 29.04.2017.
11. RDO Bhupalapally, without considering the facts and the revenue records allowed the appeal on 12.06.2019 set aside the order of Tahsildar Kataram Mandal dated 29.04.2017 in file no. B/244/2016. RDO Bhupalapally has also set aside the mutation orders in file no. B1/4783/2004 dated 16.11.2004 and B/154/2005 dated 10-8-2005 and further declared that Patta Passbooks issued earlier shall stand cancelled.
12. Against the order passed by RDO in file no. F/1499/2017 dated 12-7-2019, the Revision Petitioners no.1,2,3 have filed Revision in Rc.No. E2/1029/2019-1, E2/1029/2019-2 before the Joint Collector, Jayashankar Bhupalpally District on 30-7-2019 and the Joint Collector allowed the revision petition and set aside the order passed by R.D.O. Bhupalpally in file no. F/1499/2017 dated 12.07.2019 and directed the Tahsildar, Kataram, to restore the Revenue records.
13. Without giving an opportunity to the revision petitioners to challenge the order before the Joint Collector, Chinnala Pochaiah S/o Ramaiah managed to get his name mutated in the revenue records and pattadar passbook and title deed bearing no. 240702701 with Katha no. 340 was issued in favour of Chinnala Pochaiah S/o. Ramaiah.
14. R-1 took advantage of the passbook issued to him and on 06.08.2019 he sold the total land admeasuring Ac.11-07 gts in Sy.No. 14 to other respondents in this

case through registered documents bearing no. 4929 of 2019, 4930 of 2019, 4931 of 2019, 4932 of 2019, 4933 of 2019, and 4934 of 2019 respectively in the office of the Sub Registrar, Mulugu.

15. On 27.11.2019, Bommana Rajashekar (R-6) sold Ac.0-20 gts in the above said survey number to R-8 and also executed Gift Settlement Deed document bearing no. 7627 of 2019 registered at S.R.O Mulugu for Land admeasuring 121 Sq. Yards (Ac.0-01 gts) in Sy. no.14 to R-9.
16. The revision petitioners submit that Chinnala Pochaiah S/o Ramaiah was never in possession of the Land in Sy.No. 14 and R-1 created fake documents and said sale deeds were executed in the name of Chinnala Pochaiah S/o Ramaiah against the provision under Section 52 of Transfer of Property Act 1882. All the above said documents created do not carry any value in the eye of law and R-3 to 9 will not get any rights through their fake and fabricated documents and revenue records have to be restored.

### **RESPONDENTS' ARGUMENTS**

#### **Arguments of Respondent No.1 to 9**

17. The learned counsel for R-1 to R-9 has argued that the allegations against the respondents are denied. R-1 filed a petition before the Tahsildar, Kataram, by contending that he is the owner and possessor of the Ac 11-07 gts of Land situated at Kambalpadu village of Kataram Mandal and it was further stated that the RP-1, in collusion with RP-2 brought into existence a registered sale deed bearing No. 716/2015, dated 24-06-2005 executed by Chinnala Pochireddy, S/o Mallaiah to the extent of Ac 10-00 Gts and got mutated the said land in their name. R-1 represented before the Tahsildar Kataram to cancel the said registration sale deed and to also cancel the patta passbooks. However, the Tahsildar did not properly enquire about the complaint. Aggrieved by the said order, R-1 filed an appeal before the RDO, Bhupalpally, that the issuance of Patta Pass books in favour of the Petitioner was illegal and without any valid rights.
18. The father of R-1 was the pattedar of the land and he succeeded the said property after the demise of his father and owing to their poor condition of the family they left their village a long time back and they are living at Chidnala village.

19. The counsel further submitted that R-1 was eking livelihood by attending agricultural work in the subject land during his young age. As the subject Land is situated on the High Way leading to Maharastra - Sironcha and Warangal, Telangana States, it was very difficult to the respondent to make fencing around the subject Land to protect the crops from straw and wild animals and he left the land fallow. Now the respondent is residing with his elder daughter and son-in-law. Taking the advantage of absence of respondent from the village the RP-1 & RP-2 hatched a conspiracy and manipulated revenue records in collusion with the Revenue officials at the Mandal level.
20. Further the Counsel has submitted that the Tahsildar reported that as per sethwar and khasra pahani 1954-55, Chinala Ramulu, father of the respondent no.1 was the pattedar of land in Sy. No. 14 to an extent of Ac 11.07gts situated at Kambalapadu village. The Respondent no.1 succeeded the same, being a legal heir. However, it was recorded in the name of R-2 vide Procs No. B/4783/2004 dt:16-11-2004 and issued PPB No. 295914 illegally without considering who was the pattedar and who had the right to succeed the property. As per schedule-I u/s 8 of the Hindu Succession Act, the Respondent is only to succeed the property held in the name of his father Chinala Ramulu. While the Respondent i.e. class-I heir was alive, mutating the property in the name of R-1 was illegal.
21. The Counsel has submitted that the O.S. No. 11/2012 and I.A.No. 58/2012 filed by Chinnala Malla Reddy, Lachi Reddy & Bal Reddy seeking partition of the subject Land is in no way concerned to the respondent. The O.S.No. 33/2013 filed by the son of the Respondent for declaration of title and perpetual injunction on the file of Senior Civil judge Manthani was dismissed and aggrieved by which he filed an appeal before the ADJ Godavarkani which is pending for trial. This case is also not concerned with the claim of respondent. In this case Chinnala Pochi Reddy was not the actual owner of the subject land and therefore, the registered sale deed No.716/2005 dt:24-06-2005 executed by him in favour of revision petitioners is invalid in the eye of law and thereby mutation Procs No. B/154/2005 dt:10-08-2005 made in the name of RP-1 is illegal.
22. The Counsel has submitted that the impugned order passed by the Tahsildar does not indicate the provision of law under which it is given. No one shall be

a judge in his case. The Tahsildar sanctioned fourth mutations in favour of the revision petitioners vide Procs No. B1/4783/2004 dated 16.11.2004 and taking advantage of the same he executed a registered sale deed No. 716/2005 dated 24.06.2005 without entitlement.

23. The Counsel for respondent has submitted the the Hon'ble High court held in the case reported AIR 2006 AP 292 that no order shall be allowed to stand if it has been obtained by fraud as it unravels everything.

24. The Counsel for respondent has submitted RDO Bhupalpally has rightly passed the following orders in Case No. F/1499/2017 as below:

*"In view of the above facts, the appeal is allowed setting aside impugned order No. B/244/2016 Dt:29.04.2017 as being without jurisdiction. The mutation order No. B1/4783/2004 dated 16-11-2004 in favour of respondent No.2 & B/154/2005 in favour of respondent No.1 are set aside and consequently, entries made in records and PPB &TDs issued if any shall stands cancelled".*

#### **Arguments of Respondent No.10 :-**

25. The respondent no.10 has argued that he is the dealer for HPCL and currently operating petrol pump at land to the extent of Ac.0-15 gts in Sy. No.14 Bayyaram Village, Shivaru Kambalapahad, Kataram Mandal of Karimnagar District, and R-10 purchased the same from Thipparthi Ravinder Reddy, S/o.Buchi Reddy through Regd. sale deed vide Doc no.2109/2011 Dt: 10-11-2011. In turn, the said vendor Thipparthi Ravinder Reddy purchased the said Land to the extent of Ac.10-00 gts in Sy. No.14 from its erstwhile owner Chinnala Pochi Reddy who is the original pattedar through Regd. sale deed vide Doc No.716/2005 Dt: 24-6-2005. Subsequently, the name of the said owner Thipparthi Ravinder Reddy has mutated his name in the concerned revenue records and the revenue authorities, after conducting denovo enquiry and on perusal of documents issued a pattadar passbook in his favour.

26. The respondent no.10 has further submitted that originally the pattedar Chinnala Mallaiah was the owner of the Land to an extent of Ac.11-07 gts in Sy.No.14 and his name was also entered in the concerned revenue records from 1976-77, 1979-80, 1982-83 to 1989-90, 1992-93, 1993-97, 1995-96 to 1997-98, 2001-02 to 2006-07, 2008-09 and 2009-10 and the same is evident that the pahanies for the above said years subsequently to his sale the said purchaser Thipparthi

Ravinder Reddy vendor of the respondent No.10 was also mutated in the concerned revenue records vide file no.B-143/39/2012 dtd:27.11.2012 and after alienating the Land to an extent of Ac 0-15 gts in Sy.No.14 to the respondent No.10 through Regd. sale deed and also name was shown in the pahani for the years 2012-13. Later, the Land was given on lease in favour of respondent No.11 and the respondent No.11 is paying the lease amounts regularly to the respondent No.10. It is submitted that the company outlet started its operations from 01-03-2013 and still the business is continuing. Unnecessarily respondent no.10 name has been incorporated in the above said case proceedings.

### **Arguments of Respondent No.11**

27. The respondent no.11 has argued that it is a public limited company. R-10 had applied for petrol bunk license and was selected as dealer for HPCL Corporation. Respondent No.10 furnished all required documents pertaining to the Land and after careful scrutiny by the advocate of the Corporation who gave an opinion for proceeding ahead with the establishment of a retail outlet at the subject location. The Corporation, applied for a No Objection Certificate from the District Collector, which was granted vide proceeding no. C1/5105/2012 dated 28-12-2012 and therefore sanctioned dealership to the respondent No.10 for doing business on behalf of HPCL Corporation. The Mandal Revenue Officer (Tahsildar) and RDO have given No Objection to setting up the petrol pump on the above said Land after inspecting the site. They have given No Objection to District Collector Bhupalpally, in turn, he has given NOC to establish a petrol pump to HPCL Corporation.
28. The learned counsel for R-11 has further submitted that he is in no way concerned with the dispute that has arisen between revision petitioners and respondents No.1 to 10. The respondent company is commencing its business on the offer made by R-10. R-11 is not interested in any title dispute between the revision petitioners and respondents No.1 to 9, and unnecessarily the revision petitioners are made as a party before the Special Tribunal.

### **Documentary Evidences**

#### **29. Documents submitted by Appellant:**

- A. Passbook bearing no.295996 of T.Ravinder Reddy
- B. Mutation Order No.B/154/2005, dated 10.08.2005.
- C. Final Result in Cr.No. 23 of 2016, dated 22.02.2016 of P.S.Kataram.



- D. Memo in RC No.B/730/2022 dated 29.09.2022 O/o Tahsildar Kataram Mandal.
- E. Passbook bearing no. 295914 of Chinnala Pochireddy S/o Mallaiah.
- F. Mutation order in file no.B1/4783/2004, dated 16.11.2004.
- G. Compromise award in A.S No.7 of 2019 before Hon'ble Lok Adalat Bench at Godavarikhani (Hon'ble VI A.D.J)
- H. Pahani copies in Sy.no.14, Kambalpahad (V), Kataram (M) for the year 1965-66, 1972-73, 1974-75, 1987-88, 1993-94, 1995-96,1996-97, 2003-04, 2004-05, 2005-06, 2008-09, 2013-14, 2014-15, 2015-16, 2016-17.
- I. Judgement in OS No.33 of 2013, dtd:31.12.2018 on the file of Hon'ble Senior Civil Judge at Manthani.
- J. Stay order in Rc.No. E2/1029/2019-1 & E2/1029/2019-2, dated 16.08.2019 on the file of Hon'ble Joint Collector, Jayashankar Bhupalpally.
- K. Registered sale deed executed at S.R.O Mulugu, Document bearing no. 4929 of 2019, 4930 of 2019, 4931 of 2019, 4932 of 2019, 4933 of 2019, 4934 of 2019.
- L. Registered sale deed executed by the R-6 at S.R.O Mulugu, Document bearing no. 7627 of 2019.
- M. Registered sale deed executed by the Revision Petitioner no.1 at S.R.O Manthani, Document bearing no. 2109 of 2011.
- N. Registered lease deed executed by the Respondent no.10 at S.R.O Manthani, Document bearing no. 145 of 2013.
- O. No objection certificate and Publication for construction of Petrol bunk in Sy.no. 14, Kambalpahad (V), Kataram (M) given to respondent no 10.
- P. Copy VIII(A) Namuna of R-6
- Q. Mutation order in file no.F-143/39-2012 of Respondent no.10.
- R. Appointment letter issued by H.P.C.L to run Sai Ram Filling Station in Sy.no. 14, Kambalpahad (V), Kataram (M) in favour of Respondent no.10.

30. **Documents submitted by the respondents:**

- A. Order of the Joint Collector, Jayashankar Bhupalpally vide Case No. E2/1029/2019-1 & E2/1029/2019-2 dated 29.08.2019.
- B. Order of the Revenue Divisional Officer, Bhupalpally in Case No. F/1499/2017, dated 12.07.2019.
- C. Proceedings of the Tahsildar, Kataram, Procd.no.B/244/2016 dated 29.04.2017.
- D. Judgement in OS No.33 of 2013, dtd:31.12.2018 on the file of Hon'ble Senior Civil Judge at Manthani.

- E. Khasra Pahani year (1954-55) & Nakal Sethwar of Sy.no.14, Kambalpahad (V), Kataram (M).
- F. Statement of Chinnala Pochi Reddy Alias Pochaiah S/o Mallaiah Before RDO cum Sub Divisional Magistrate.
- G. Encumbrance certificate of Sy.no.14/ A, Kambalpahad (V), Kataram (M).
- H. Pattadar Passbook of Sri Bommana Rajashekar, Sri Maragoni Swami, Thotapalli Vijaya, Ravula Thirmul, Bommana Rajeshwari and Godisala Swaroopa.

## FINDINGS

31. The mandate of this Special Tribunal is to confine itself strictly to the provisions of the **Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971** and the tribunal will not delve into the questions of title as it is beyond the scope of the Act and can only be decided in a civil court.

32. Section – 4 of the Act pertains to Acquisition of Rights:

4. Acquisition of rights to be intimated. - (1) 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 said Mandal Revenue Officer shall give or send a written acknowledgement of the receipt of such intimation to the person making it:

Provided that where the person acquiring the right is a minor or otherwise disqualified, his guardian or other persons having charge of his property shall intimate the fact of such acquisition to the Mandal Revenue Officer.

33. Section 5(5) of the Act lays down condition for appeal against orders of Mandal Revenue Officer:

(1) 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 therefore and shall carryout the amendment in the record of rights in accordance with such determination:

(5) Against every order of the Mandal Revenue Officer either making an amendment in the record of rights or refusing to make such an amendment, an appeal shall lie to the Revenue Divisional Officer or such authority as may be prescribed, **within a period of sixty days** from 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.

34. The relevant excerpts of the impugned order passed by RDO Bhupalpally in Case No F/1499/2017 are produced are:

- a. ... this is a case filed by Chinnala Pochi Reddy s/o Ramaiah under section 5(5) of Telangana Rights in Land & PPB Act 1971 against the orders passed by Tahsildar Kataram vide Procs No B/244/2016 dated 29.04.2017 wherein he held that Chinnala Pochi Reddy s/o Mallaiah was the pattedar of the land in Sy No. 14 to an extent of Ac 11.07 Gts situated at Kambalpahadu village.
- b. ... the Tahsildar passed order on the complaint of appellant vide Procs No. B/244/2016 dated 29.04.2017 stating that as per Pahani of 1970-71 the subject land stood patta in the name of Chinnala Mallaiah which was mutated in the name of respondent No. 2 vide Proceeding No B/4783/2004 dated 16.11.2004 and issued PPB No 295914 and he himself attended before the sub registrar and executed sale deed no 716/2005 dated 24.06.2005 for an extent of Ac 10.00 Gts in favour of respondent no 1 who established a petrol bunk on the land.
- c. ... the Tahsildar reported that as per sethwar and khasra pahani 1954-55 Chinnala Ramulu father of the appellant was the pattedar of the land in Sy No 14. As per schedule - 1 u/s 8 of Hindu Succession Act, the appellant is only to succeed the property held in the name of his father Chinnala Ramulu. While the appellant i.e. Class - 1 legal heir was alive, mutating the property in the name of respondent no. 2 is illegal.
- d. ... in this case the respondent No. 2 was not the real owner of the subject land and therefore the registered sale deed no 716/2005 dated 24.06.2005 executed by him in favour of the respondent no. 1 is invalid in the eye of the law and thereby mutation proceeding No B/154/2005 dated 10.08.2005 made in the name of the respondent no. 1 is illegal.
- e. ... the impugned order passed by the Tahsildar does not indicate the provision of the law under which it is passed. The appeal is allowed setting aside impugned order No. B/244/2016 dated 29.04.2017 as being without jurisdiction. The mutation order no B1/4783/2004 dated 16.11.2004 in favour of respondents No. 2 & B/154/2005 in favour of respondent No. 1 are set aside and consequently entries made in records and PPB issued if any shall stands cancelled.

35. Appeal petition filed under Section 5(5) read with Rule 21 (relevant excerpts are produced)

- a. ... aggrieved by the impugned order dated 29.04.2017 in file no B/244/2016 on the file of the Tahsildar Kataram Mandal, this appeal is preferred within limitation by annexing the original order under appeal.
- b. PRAYER: It is prayed that the appeal may be allowed with costs and **impugned order under appeal dated 29.04.2017 in file No. B/244/2016 on the file of the Tahsildar Kataram may be set aside** and consequently the Tahsildar Kataram may be directed to delete the name of respondents 1 to 4 from revenue records and incorporate the name of this appellant in all relevant records and upload in revenue website for transparency of public records.

36. It is to be observed that the appellant prayed **only for setting aside order B/244/2016** and not the earlier orders of succession & mutations passed more than 10 years ago.

37. Since the appeal was filed against the order passed by Tahsildar Katram in file No B/244/2016 dated 29.04.2017 therefore it is important to go through the relevant excerpts of the order:

- a. **Subject:** Disputes in Patta Lands – Kataram Mandal – Kambalpahadu Village – Resolution of dispute between Chinnala Pocham s/o Ramaiah and Chinnala Pocham s/o Malla Reddy with regards to the land in Sy No. 14 – Orders
- b. Sri Chinnala Pochi Reddy s/o Ramaiah through his application dated 17.02.2017 stated that he had agricultural land to an extent of Ac 11.07 guntas in Sy No. 14 situated at Kambalpahadu village. However, the said land has been sold by his relative Chinnala Pochi Reddy s/o Mallaiah to Thipparthi Ravinder Reddy with a mala fide intention and hence requested to **do justice to him.**
- c. Based on the information in the above application, perused the office records and then the following matters have been established
  - i. As per copy of Sethwar the land in Sy No 14 is recorded in the name of Chinnala Ramaiah and there is no evidence for the father of such Ramaiah. After that a perusal of Khasra and upto this date Pahani the

name of Chinnala Ramaiah has not been shown either as pattedar or enjoyer.

- ii. Hence certified that the pass book issued in favour of Thipparthi Ravinder Reddy s/o Bucchi Reddy for the land to an extent of Ac. 10.00 in Sy No 14 purchased in the year 2005 is correct. Hence orders issued.

38. The relevant excerpts of the application made by Pochi Reddy s/o Ramaiah dated 17.02.2017 (translated from Telugu)

To

MRO Kataram

My name is Chinnala Pochireddy s/o Ramulu. I own Ac 11.07 Gts land in Survey No 14 of Kambalpahadu village of Kataram Mandal. The patta is in the name of my father Ramulu s/o Pochaiah. After the death of my father and due to poor financial condition of my family I shifted from Bayyaram to Chidnepalli village. However, my relative Pochireddy s/o Mallaiah has got the land fraudently in his name. After asking my relative the reason for doing so he told me that he has also been a victim of fraud as he has been forced to sell the land to one T Ravinder Reddy. Further, he told that the land actually does not belong to him and gave it in writing through an affidavit.

Therefore, I request to you to enquire into the issue and provide relevant revenue records viz. Khasra Pahani of 1943 to me. There is also a police case regarding this issue. Therefore, I pray to do justice in this matter.

39. After having gone through (a) application filed by R-1 before MRO Kataram (b) order passed by MRO Kataram (c) impugned order passed by RDO, this tribunal has to ascertain whether the RDO has followed the procedures laid down in the Act & Rules while deciding the appeal under Section 5(5) or not.

40. The important issues to discuss in this case are as follows:

- a. **Is the application made before MRO dated 17-02-2017 by Pochi Reddy s/o Ramaiah can be held valid under Section - 4 of the Act ?**
- b. **Is the order by Tahsildar Kataram in file no B/244/2016 dated 29.04.2017 valid under Section 5 of the Act ?**

- c. Was it legal for RDO to take up the case under Section 5(5) of the Act ?
- d. Can RDO pass orders for setting aside succession proceeding B1/4783/04 dated 16.11.2004 and mutation proceeding B/154/2005 dated 10.08.2005 when the appeal was filed only to set aside impugned order passed by Tahsildar Kataram vide B/244/2016 dated 29.04.2017

41. Discussion regarding each of the above issues:

- a. Is the application made before MRO dated 17-02-2017 by Pochi Reddy s/o Ramaiah can be held valid under Section – 4 of the Act ?
  - i. The application made by R-1 before MRO Kataram only prays for doing justice in the matter.
  - ii. The petitioner did not request for mutating his name in the revenue record or cancelling the name of **Mallaiah** who was mentioned in the revenue records till 2004.
  - iii. The application is in the nature of **land grievance** and not an application under Section – 4 of the Act.
- b. Is the order by Tahsildar Kataram in file no B/244/2016 dated 29.04.2017 under Section 5 of the Act ?
  - i. The subject of the proceeding clearly mentions that it is an order pertaining to **land dispute**.
  - ii. Further, the Tahsildar has only stated the fact that the Patta Passbook issued in favour RP-1 is valid as it took place through registered sale deed followed by mutation vide B/154/2005 dated 10.08.2005
  - iii. The proceeding issued by Tahsildar Kataram is certainly not under Section 5 of the Act.

- iv. Moreover, the Tahsildar **cannot review or set aside** the orders passed by earlier Tahsildars as the power to review the cases lies with Joint Collector under Section – 9 of the Act.
- c. **Was it legal for RDO to take up the case under Section 5(5) of the Act ?**
- i. RDO before admitting the case should have verified whether the order passed by Tahsildar Kataram qualifies under Section 5 of the Act.
  - ii. From point (b) above it is evident that a case under Section 5(5) of the Act can be taken up only when Tahsildar has passed an order under Section 5.
- d. **Can RDO pass orders for setting aside succession proceeding B1/4783/04 dated 16.11.2004 and mutation proceeding B/154/2005 dated 10.08.2005 when the appeal was filed only to set aside impugned order passed by Tahsildar Kataram vide B/244/2016 dated 29.04.2017**
- i. The appeal petition filed by R-1 prays **only for setting aside order B/244/2016** dated 29.04.2017 as seen from the PRAYER section of the appeal petition.
  - ii. In **Messrs. Trojan & Co. Vs. RM.N.N. Nagappa Chettiar AIR 1953 SC 235**, the Court considered the issue as to whether relief not asked for by a party could be granted and that too without having proper pleadings. The Court held as under - “It is well settled that the decision of a case cannot be based on grounds outside the pleadings of the parties and it is the case pleaded that has to be found”
  - iii. A similar view has been re-iterated in **Krishna Priya Ganguly etc. Vs. University of Lucknow & Ors. etc. AIR 1984 SC 186**; and **Om Prakash & Ors. Vs. Ram Kumar & Ors., AIR 1991 SC**

409, observing that a party cannot be granted a relief which is not claimed.

- iv. In **Bharat Amratlal Kothari Vs. Dosukhan Samadkhan Sindhi & Ors.**, AIR 2010 SC 475 held - “Though the Court has very wide discretion in granting relief, the court, however, cannot, ignoring and keeping aside the norms and principles governing grant of relief, grant a relief not even prayed for by the petitioner”
- v. Since R-1 did not appeal against the earlier issued orders of succession & mutation, therefore, RDO cannot set aside the orders.
- vi. Further, there is a limitation of 60 days for filing an appeal under Section 5(5). An appeal filed beyond the limitation period has to be filed mentioning the reasons for delay and the appellant court has to condone the delay before admitting the case.

42. On perusal of revenue records pertaining to 1970s, 80s & 90s it is clear that Mallaih was the pattedar of suit schedule land i.e. Sy No 14 in Kambalpahadu village of Kataram Mandal. His name continued being recorded in revenue records for more than 40 years. There was no case filed by the respondents against the inclusion of Mallaih’s name in the revenue records.

43. Further, in O.S.No.33 of 2013 on the file of Hon'ble Senior Civil Judge, Manthini, the Hon'ble court has clearly held that **Mallaiah** who was the grandfather of RP-3 was the pattedar of the land.

44. In Supreme Court’s decision of **Balwant Singh v. Daulat Singh**, (1997) 7 SCC 137, Court had considered the effect of mutation and observed that mutation of property in revenue record neither creates nor extinguishes title to the property nor has any presumptive value on title. Such entries are relevant only for the purpose of collecting land revenue.



It is a settled principle of law that if there is any dispute with respect to the title and more particularly, the party who is claiming the title/right on the basis has to approach the appropriate civil court and get his rights crystalized and only thereafter on the basis of the decision before the civil court necessary mutation can be made.

45. In **The State of Madhya Pradesh & Pujari Utthan Kalyan Samiti**, the Supreme Court has held that

This long possession and recording of their names in revenue records as Bhoomiswami or Managers has definitely created a right in their favour. **It is an established principle of law that if any right has been vested in a person by certain statutory provisions, the same cannot be withdrawn by an executive instruction.** Even if a person is required to be deprived of his vested right in a property, a legal procedure for the same will have to be adopted

46. From the reading of the above judgments given by Hon'ble Supreme Court it is evident that since the name of **Chinnala Mallaiah** came into Pahani records in 1970s and continued upto 2004 without any challenge from the respondents, therefore, the name of Mallaiah can be deleted only after claiming it in a competent civil court and getting an order in that regard.

47. Further, the argument of R-1 is that he succeeded the land from his father Ramulu who was the actual pattedar of the land. The Section - 4 of the Act makes it clear that in cases where the original pattedar has died, it's the responsibility of the legal heir to **intimate in writing his acquisition of such right within ninety days** from the date of such acquisition. However, no such claim was made by R-1 after the death of his father.

## ORDER

Having perused the documentary evidences and arguments by the learned counsels of both sides and based on the findings discussed in the aforesaid paragraphs, this court orders that:

1. As per revenue records **Mallaiah** was mentioned as pattedar since 1970s till 2004. This fact is also decided by the Hon'ble Civil Court, Mathini in OS No.

33 of 2013. Therefore, claim of respondents particularly R-1 that **Ramulu** was pattedar of the land can be decided only through filing a claim for title before the competent civil court.

2. The impugned order passed by RDO suffers from numerous defects and is therefore **set aside** based on the following grounds:
  - a. The appeal petition filed by R-1 did not meet the criteria of appeal as laid down under Section 5(5) of the Act as the order passed by Tahsildar Kataram was meant for addressing the question of land dispute and doesn't qualify as an order under Section - 5 of the Act. Further, R-1 himself did not claim any right under Section - 4 of the Act.
  - b. The order passed by Tahsildar Kataram is in the form of **conveying an information** and not an order refusing to amend the revenue records.
    - a. Even if the appeal was admitted, RDO had to confine his judgment to only the orders passed by Tahsildar Kataram in **B/244/2016 dated 29.04.2017**.
    - c. RDO cannot take up review of proceeding **B1/4783/04 dated 16.11.2004 and B/154/2005 dated 10.08.2005** since there was no appeal against these orders by R-1. The appeal petition specifically prayed for quashing the proceeding B/244/2016 dated 29.04.2017.
    - d. RDO in his order dealt with the question of deciding the title which is beyond his jurisdiction. As laid down by Hon'ble Supreme Court in the past revenue authorities have no right to adjudicate over title dispute.
3. As a consequence of setting aside of the impugned in Case No. F/1499/2017 dated: 12.07.2019, all the amendments made in the revenue records after 12.07.2019 will stand cancelled and the Tahsildar Kataram is instructed to restore the names of pattedar in the revenue records as existed prior to passing of the impugned order.

This order has been pronounced by me in this open court on 06.01.2023 (Friday)



**SCHEDULE OF LAND:**

Sl.No.	District	Mandal	Revenue Village	Sy.No.	Extent
1.	Jayashankar Bhupalpally	Kataram	Kambalpadu	14	Ac.11-07gts

Additional Collector (Revenue)  
Jayashankar Bhupalpally

District Collector  
Jayashankar Bhupalpally

**To**

Sri Thipparthi Ravinder Reddy, S/o Buchi Reddy"

Sri Challa Narayana Reddy, S/o Malla Reddy

Sri Chinnala Sambashiva Reddy,

Sri Chinnala Pochireddy S/o Ramaiah

Sri Janothula Chitharanjan Reddy, S/o Late Chandra Reddy

Smt Bommena Rajeshewari, W/o Pochireddy

Smt Godishala Swarupa, W/o Raji Reddy

Smt Thotapally Vijaya, W/o Ramesh

Sri Bommana Rajasekhar, S/o Pochi Reddy

Sri Maragoni Swamy, S/o Lingaiah

Sri Ravula Tirumal, S/o Raja Ram

Sri Loke Suresh, S/o Prabhakar

Smt Mulukala Sunitha, W/o Sampath

M/s. Hindustan Petroleum Corporation Limited, Rep.by its Chief Regional Manager.