APHC010223512025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3601]**
(Special Original Jurisdiction)

WEDNESDAY, THE 15th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

WRIT APPEAL NO: 536/2025

Writ Appeal under clause 15 of the Letters Patent to set aside the impugned order dated 12.02.2025 passed in W.P.No.2669 of 2021 and pass

Between:

1. MAKAM SUMITH, S/O. LATE MAKAM RAMANJANEYULU, AGED ABOUT 38 YEARS, R/O.D.NO.18/515, AMMAVARISHALA STREET, PRODDATUR TOWN, YSR KADAPA DISTRICT.

...APPELLANT

AND

1. GUMMIREDDY BHARATH KUMAR REDDY, S/O. SIVA RAMI REDDY, AGED ABOUT 25 YEARS, R/O. 26/913-16, NAGENDRA NAGAR, PRODDATUR, YSR KADAPA DISTRICT.

2. PADIGAPATI VENKATA SADA SIVA REDDY, S/O. VENKATA SIVA REDDY, AGED ABOUT 32 YEARS R/O. D.NO.5-62, POTLADURTHI VILLAGE AND POST, BEHIND RAMALAYAM, YERRAGUNTIA MANDAL, YSR KADAPA DISTRICT.

3. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY REVENUE DEPARTMENT, A.P. SECRETARIAT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT.

4. THE DISTRICT COLLECTOR, YSR KADAPA DISTRICT AT

KADAPA.

5. THE REVENUE DIVISIONAL OFFICER, KADAPA DIVISION, YSR KADAPA DISTRICT.

6. THE TAHSILDAR, YERRAGUNTIA MANDAL, YSR KADAPA DISTRICT.

7. THE SUBREGISTRAR, DEPARTMENT OF REGISTRATION AND STAMPS, KAMALAPURAM VILLAGE AND MANDAL, YSR KADAPA DISTRICT.

8. MAKAM RAMANJANEYULU DIED, A

...RESPONDENT(S):

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to suspend the operation of the order dated.12.2.2025 passed in W.P.No.2669/2021 pending disposal of the above Writ Appeal and pass

Counsel for the Appellant:

1. M SIVA KUMAR

Counsel for the Respondent(S):

1. GP FOR REVENUE

2. SODUM ANVESHA

The Court made the following:

JUDGMENT:-*(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri O.Manohar Reddy, learned Senior Counsel assisted by Sri M.Siva Kumar, learned counsel for the appellant, Sri Ch.Bhargav Sarma, learned counsel representing Ms.Sodum Anvesha, learned counsel appearing for respondent Nos.1 & 2, and the learned Assistant Government Pleader for Revenue appearing for respondent Nos.3 to 7.

2. The Writ Appeal has been preferred by name Makam Sumith respondent No.7 in the writ petition.

3. The dispute pertains to the revenue record entries in respect of land admeasuring Ac.9-61 cents situated in Survey Nos.788, 784, 790, 795, 796, 797, 798, 786, 789, 802 and 807/1 of Potladurthi Village. Initially, the revenue entries stood in the names of the writ petitioners.

4. Respondent No.6 in the writ petition, namely, Makam Ramanjaneyulu (father of the writ appellant/respondent No.7 in writ petition), submitted an application seeking mutation in the revenue records in his favour on the strength of the registered sale deeds. The application was allowed by the Tahsildar, Yerraguntla Mandal, Y.S.R. Kadapa District, *vide* Ref.No.B/64/2017 dated 04.08.2017 under the provisions of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short, "the Act, 1971").

5. Subsequently, the writ appellant, on the strength of a registered gift deed in his favour, by respondent No.6 in the writ petition, sought mutation in the revenue records in his favour in place of his father/respondent No.6. The same was allowed by the Tahsildar by order dated 13.11.2018 which records that notice was issued to the concerned parties and, as no objections were received, the mutation was effected.

6. Challenging the order dated 13.11.2018, the writ petitioner, (present respondent No.6), has filed W.P. No.2669 of 2021.

7. The learned Single Judge, after considering the submissions advanced on behalf of both the sides, disposed of the writ petition, vide judgment dated 12.02.205 in the following terms:

> *"14. In view of the same, taking into consideration the facts and the circumstances of the case, to meet the ends of justice, this Court is inclined to dispose of the writ petition by passing the following order:*
>
> > *"The Tahsildar concerned shall restore back the petitioners names in the revenue records and keep the subject property in dispute register pending disposal of the suit in OS No. 33 of 2017 on the file of the II Additional District Judge, Kadapa".*
>
> *15. Accordingly, the Writ petition is disposed of. There shall be no order as to costs."*

8. Sri O. Manohar Reddy, learned Senior Counsel for the writ appellant submits that the order dated 04.08.2017 was not under challenge in the writ petition. Nevertheless, the learned single Judge has virtually set aside the order dated 04.08.2017 as well, by directing restoration of the names of the writ petitioners in the revenue records. He submits that, in the absence of any challenge to the order dated 04.08.2017, no interference therewith could be made nor could any direction be issued taking away the effect of that order dated 04.08.2027. According to him, the only order under challenge in the writ petition was the order dated 13.11.2018, which was in favour of respondent No.7 (writ appellant), and if that order, for the sake of submission, was not valid, the previous order dated 4.8.2017 in favour of respondent No.6 in the writ petition, would stand, and in no case direction could be given to restore the names of the petitioners in the revenue records.

9. Learned Senior Counsel further submits that the ground or the reasons on which the writ petition has been decided against the writ appellant are also unsustainable to support the impugned order dated 04.08.2017 which itself records that the notices were issued to the writ petitioners in the proceedings before the Tahsildar, and despite service of notices, the writ petitioners neither appeared nor submitted any objections. He further submits that the respondent No.4–Tahsildar had filed a counter-affidavit in the writ petition specifically stating that notices

had been issued to the writ petitioners and after following the due process prescribed under law, the application was considered and allowed. The writ petitioners did not file any rejoinder affidavit controverting the contents of the counter-affidavit of respondent No.4. His submission is that since the order dated 04.08.2017 was not the subject matter of challenge in the writ petition and the fact recorded by the Tahsildar in the order dated 4.8.017 that notices were issued and served, were specifically not disputed, there was no occasion for the respondent No.4 to file the material on the proof of service of notice.

10. Learned Senior Counsel submits that the respondent No.6 had instituted O.S. No.33 of 2017 on 04.07.2017, which was pending before the II Additional District Judge, Proddatur, but that would not be a bar for effecting mutation in the revenue records by the Tahsildar under the Act,1971 and in this regard, Section 8 (2) of the Act, 1971 and the decision in ***V. Goutham Rao v. Revenue Divisional Officer and Another***[1] have not been correctly appreciated nor applied. He submits that a reading of the aforesaid judgment does not indicate that, merely because a civil suit relating to the property is pending, the revenue authorities are precluded from exercising their powers under the Act, 1971 to effect mutation in the revenue records.

---

[1] 2003 (1) ALT 615

11. Sri Ch. Bhargav Sarma, learned counsel for the writ petitioners, submits that the judgment under appeal does not warrant any interference. He submits that the writ petitioners had no knowledge of the order dated 04.08.2017. Otherwise, they would have challenged the order dated 04.08.2027 as well in the writ petition.

12. Learned counsel for the writ petitioners further submits that once the civil suit in O.S.No.33 of 2027 had been instituted and was pending, the Tahsildar had no jurisdiction to pass the order dated 04.08.2017 in view of Section 8 (2) of the Act,1971.

13. Learned counsel for the writ petitioners, however does not dispute **(i)** that the order dated 04.08.2017 was not under challenge in the writ petition and **(ii)** that no affidavit was filed by the writ petitioners disputing or controverting the specific averments in the counter affidavit of respondent No.4-Tahsildar with regard to the issuance and service of notice upon the writ petitioners in the proceedings for mutation culminating in the order dated 04.08.2017.

14. Learned Assistant Government Pleader for Revenue submits that the copy of the order dated 04.08.2017 was filed by the Tahsildar in the writ petition, and as per the same, notices were served on the writ petitioners, but they did not respond.

15. We have considered the aforesaid submissions of the learned counsels for the parties and perused the material on record.

16. There is no dispute on the fact that the order dated 04.08.2017 passed by the Tahsildar in favour respondent No.6 in the writ petition was not under challenge in the writ petition. There was also no material placed on record by the writ petitioners, nor even a contrary pleading to raise even a doubt on the issuance and service of notice on the writ petitioners in the proceedings before the Tahsildar culminating in the order dated 04.08.2017. On the other hand, the order dated 04.08.2017 itself recorded that notices were issued to the respondents in those proceedings and the second notice issued was served, buy they failed to file response or to appear. The respondent No.4-Tahsildar, in the counter affidavit, specifically averred that the notice was served on the writ petitioners before passing the order dated 4.08.2017. In the absence of any pleading or affidavit disputing the service of notice, there was no occasion to doubt the correctness of the recital in the order dated 04.08.2017 or the averments made in the counter affidavit, nor was there any necessity for the writ appellant or the Tahsildar to produce material to prove service of notice. If the order dated 4.08.2017 was challenged and the service of notice was denied, then production of material to prove service would have been a relevant consideration.

17. In paragraph Nos.10 and 11 of the judgment, it has been observed that though the proceedings were filed along with the counter of the 4th respondent there was no material placed on record to show that the notice was served on the petitioner before passing the impugned order dated 13.11.2018. It was further observed that the Court cannot decide whether the said orders were passed by following the procedure contemplated under law by considering proper notice to the petitioner or not. Paragraph Nos.10 & 11 of the impugned judgment read as under:

> "10. Now, the contention of the unofficial respondents is that the petitioners have not questioned the said proceedings subsequently, the impugned proceedings have been issued. Though the said proceedings have been filed along with the 4th respondent counter, there is no material placed on record to show that notice has been served on the petitioners before passing impugned orders dated 13.11.2018.
>
> 11. This Court cannot decide whether the said orders have been passed by following the procedure contemplated under law by issuing proper notice to the petitioners or not, however, a perusal of the proceedings would indicate that the order passed by the Tahsildar dated 04.08.2017 is behind the back of the petitioners. In view of the fact that the pattadar passbooks of the petitioners have not been set aside by passing appropriate orders, the Tahsildar should have issued notices to them before mutating the 6th & 7th respondents name in the revenue records. As the mutation taken place in their favour behind the back of the petitioners, the mutation proceedings dated 13.11.2018 in favour of the 7th respondent is wholly unsustainable."

18. We are of the view that once it was held that the court could not decide whether the orders were passed by following the procedure

contemplated under law by issuing proper notice to the petitioners or not the impugned orders could not be interfered with, as then, what was stated in the order dated 04.08.2017 on the point of notice and service would stand as correct.

19. We find force in the submission advanced by the learned Senior Counsel that the pendency of the civil suit, does not preclude the revenue authorities under the Act, 1971 to exercise their power and jurisdiction under the said Act. The submission to the contrary advanced by the learned counsel for the writ petitioners is legally unsustainable.

20. Section 8(2) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 is reproduced as under :

> **“8. Bar of Suits.**
>
> ***(1)*** *No suit shall lie against the Government or any officer of Government in respect of a claim to have an entry made or in relation to any entry made in any Record of Rights or to have any such entry omitted or amended.*
>
> ***(2)*** *If any person is aggrieved as to any rights of which he is in possession by an entry made in any Record of Rights, he may institute a suit against any person denying or interested to deny his title to such right for declaration of his right under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963), and the entry in the Record of Rights shall be amended in accordance with such declaration.”*

21. A bare reading of Section 8(2) of the Act, 1971, shows that if any person is aggrieved, as to any rights of which he is in possession, by an entry made in any record of rights, he may institute a suit against any person denying, or interested in denying, his title to such right for a declaration and the entry in the record of rights shall be amended in accordance with such declaration. Section 8(2) of the Act, 1971, therefore, provides a remedy to a person aggrieved by an entry in the record of rights to seek a declaration of title before the competent Civil Court. It further contemplates that the entries in the record of rights shall be amended in conformity with such declaration. However, Section 8(2) of the Act, 1971 does not bar the revenue authorities from exercising their power or jurisdiction under the Act,1971, with respect to the matters to be dealt under that Act, during pendency of any suit for declaration of title. Needless to observe, that if in the civil suit, the Civil Court has passed an interim order, such order shall be followed by the revenue authorities, and on final direction/declaration, the entries shall be amended accordingly.

22. It is well settled that the mutation proceedings are summary in nature. Those entries neither prove the title nor do they confer any title, but are only for fiscal purposes. So, those proceedings and the revenue record entries are always subject to, and subservient to, the declaration of title in the civil suit. Section 8(2) of the Act, 1971 recognizes that

position. But on mere pendency of the civil suit, the authorities under the Act, 1971 shall not proceed to exercise their power and jurisdiction under the Act, 1971 has neither been provided by Section 8(2) of the Act, nor does it follow from the plain reading of Section 8(2) of the Act.

23. In ***V. Goutham Rao*** (supra), it was held as follows:

> *"12.Under sub-section (1) of Section 8 of the Act, there is a bar against filing of any suit against the Government or any officer of the Government in respect of a claim to have an entry made or in relation to any entry made in any record of rights or to have any such entry omitted or amended. However, under sub-section (2) thereof, it specifically contemplates that any person aggrieved as to any rights of which he is in possession by any entry in the record of rights, may institute a suit against any person denying or interested to deny his title to such right for declaration of his right under Chapter VI of the Specific Relief Act. Further it also states that the entry in the record of rights shall be amended in accordance with any such declaration. Therefore, ultimately it is the finding of the civil court which governs the field and which has to be given effect to by the authorities and make entries accordingly. It is not too late in the day to take judicial notice of proceedings being initiated under the provisions of the Act where either a civil proceedings is already pending or where a serious dispute of title is involved. Having regard to the fact that the authorities constituted under the aforesaid statute would not venture to go into such serious questions nor can decide thereupon, yet the parties are taking recourse to such proceedings. Ultimately after exhausting the remedies under the Act, the parties are approaching the civil court whereby there is any amount of duplication in the entire process apart from the time consumed thereunder. In the*

> *circumstances, wherever there is a serious dispute of title or claims of any rival title, it would not only be proper for the authorities to refrain from proceeding with the enquires as such under the provisions of the Act but also pragmatic for the parties to approach the civil court for establishing their right, title and interest of whatsoever nature. Though the proceedings now are at the threshold i.e., at the stage of issuance of a show-cause notice, but one cannot lose sight of the fact that ultimately the authorities would have to fall back on the finding of the civil court. In view of the same, the entire exercise by the authorities under the Act would be a mere farce and nugatory."*

24. In ***V. Goutham Rao*** (supra), it was held that ultimately after exhausting the remedy under the Act, the parties were approaching the civil court whereby there was any amount of duplication in the entire process apart from the time consumed and in the circumstances wherever there was a serious dispute of title or claims of any rival title, it would not only be proper for the authorities to refrain from proceeding with the enquiries under the provisions of the Act but also pragmatic for the parties to approach the Civil Court for establishing their right, title and interest of whatsoever nature. It was also held that, the proceedings at the threshold i.e., at the stage of issuance of a show cause notice, fall back on the finding of the Civil Court and so the entire exercise by the authorities under the Act, 1971 would be a mere farce and nugatory. In our view, those are only the observations made or at the most the proper

course to be adopted, but that is no declaration of law, that if a suit is pending in the civil court the revenue authority should not exercise their power or jurisdiction conferred under the Act, 1971 for the purpose of the Act, 1971.

25. In ***V. Goutham Rao*** (supra), the 2nd respondent therein had directly approached the Chief Minister whereupon the Collector issued instructions and ultimately the Tahsildar issued the impugned notice. So, there the procedure adopted by the 2nd respondent therein was unknown to the statute, which was initiated at the direction of the District Collector. In that context, the observations as made in ***V. Goutham Rao*** (supra) are to be considered. Certainly, the proceedings under any statute are to be taken by the competent authority to be proceeded with as per the statutory provision by following the procedure prescribed which cannot be on any extraneous considerations or at the dictate of any higher authority.

26. A careful reading of the judgment in ***V. Goutham Rao*** (supra) does not show that during the pendency of a civil suit, proceedings under the Act, 1971 cannot be initiated or continued or the pendency of the civil suit bars the proceedings under the Act,1971.

27. We are of the view that the pendency of a civil suit does not operate as a bar to proceedings under the Act, 1971. If any person has a bona fide dispute regarding title to the property, it is always open to such person to seek appropriate relief before the competent Civil Court; however, the pendency of the suit proceedings, by itself, does not prohibit the revenue authorities from exercising their statutory powers and jurisdictions under the Act, 1971.

28. The Writ Appeal is ***allowed.*** The impugned order dated 12.02.2025 passed in W.P. No.2669 of 2021 is set aside.

29. Learned counsel for the writ petitioners submits that the writ petitioners have a statutory remedy under the Act, 1971 against the orders dated 04.08.2017 and 13.11.2018.

30. It shall be open to the writ petitioners to avail the alternative remedy as may be available to them in accordance with law and as may be advised against the orders dated 04.08.2017 and 13.11.2018, before the appropriate forum.

31. If any such alternative remedy is preferred, the same shall be decided by the competent authority in accordance with law, without being influenced by any observations made in this judgment.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI, J

PURUSHOTTAM KUMAR CHINTALAPUDI, J

Date :15.07.2026.
Note :- L.R. Copy to be marked.
B/o
RPD.

105

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

(ALLOWED)

WRIT APPEAL NO: 536 of 2025

Date : 15.07.2026

Note :- L.R. Copy to be marked.
B/o
RPD.

*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**

*** THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI**

<u>+WRIT APPEAL NO: 536/2025</u>

% **15.07.2026**

1. Makam Sumith.

……Appellant

And:

$ Gummireddy Bharath Kumar Reddy
and others

….Respondents.

!Counsel for the Appellant : Sri O.Manohar Reddy, learned Senior Counsel assisted by Sri M.Siva Kumar

^Counsel for the respondents 1 & 2 : Sri Ch.Bhargav Sarma, learned counsel representing Ms.Sodum Anvesha

<Gist:

>Head Note:

? Cases referred:

1. 2003 (1) ALT 615

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

* * * *

<u>WRIT APPEAL NO: 536/2025</u>

DATE OF JUDGMENT PRONOUNCED: ***15.07.2026***

<u>SUBMITTED FOR APPROVAL:</u>

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

1.	*Whether Reporters of Local newspapers may be allowed to see the Judgments?*	*Yes/No*
2.	*Whether the copies of judgment may be marked to Law Reporters/Journals*	*Yes/No*
3.	*Whether Your Lordships wish to see the fair copy of the Judgment?*	*Yes/No*

RAVI NATH TILHARI,J

PURUSHOTTAM KUMAR CHINTALAPUDI, J