

**\*THE HONBLE SRI JUSTICE V.V.S. RAO**

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**+ WRIT PETITION NO. 6098 of 2003**

**%Dated 30-04-2003**

**# CHELLA CHENCHAIAH**

**PETITIONER**

**VERSUS**

**\$ COMMISSIONER, APPEALS,  
OFFICE OF THE CHIEF COMMISSIONER OF  
LAND ADMINISTRATION, A.P.  
HYDERABAD & OTHERS**

**RESPONDENTS**

**! Counsel for Petitioner: Mr. P.N.MURTHY**

**^Counsel for Respondents: GP FOR REVENUE**

**< GIST:**

**> HEAD NOTE:**

**? Cases referred:**

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

**WRIT PETITION No.6098 OF 2003**

**ORAL ORDER:**

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The petitioner who is a son of one Chinnabba of Venugopalapuram in Chittoor District assails the order of the first respondent bearing No.P3/1205/2001, dated 30-12-2002 ('the impugned order' for brevity). Be it noted, the impugned order came to be passed by the first respondent in exercise of powers under Section 7(d) of the Andhra Pradesh (Andhra Area) Abolition of Estates and Conversion into Ryotwari Act, 1948 (hereafater called 'the Act') rejecting the claim of the petitioner for

grant of ryotwari patta in respect of the land admeasuring Acs.9.90 cents in R.S.No.408/5 and an extent of Acs.18.60 cents in R.S.No.409 of Renigunta village (hereafter called 'the subject land') which initially formed part of Srikalahasthi zamin estate.

The petitioner's father Chinnabba claimed to have been inducted in possession of the subject land in P.Nos.1169 and 1109. According to the petitioner, the lands situated at Venugopalapuram village, hamlet of Kankambandi Revenue village which was abolished under Madras Estates Abolition and Conversion into Ryotwari Act, 1948. The petitioner alleged that he filed an application for patta under Section 11(a) of the Act before the Settlement Officer, Nellore, the second respondent herein, with a petition to condone the delay. The delay was condoned and allegedly by an order dated 8-1-1987 petitioner's application for grant of patta was allowed. The same was not implemented. The petitioner filed a writ petition being W.P.No.15084 of 1988 seeking a writ of mandamus directing the respondents to implement the patta. By order dated 23-3-1989 in W.P.M.P.No.19136 of 1999, this Court directed the fourth respondent to implement patta if there is no revision petition pending against the said order. Ultimately, by an order dated 13-9-1991, this Court disposed of the writ petition in terms of the interim order dated 23-3-1989.

The fourth respondent obtained a certified copy of the order passed by the Settlement Officer dated 10-2-1987 and filed a Review W.P.M.P.No.18444 of 1991 in W.P.No.15084 of 1988 alleging that the application of the petitioner for grant of patta was rejected. The learned single Judge, by an order dated 13-7-1992 dismissed the review application. The Mandal Revenue Officer, Renigunta, fourth respondent herein, preferred a writ appeal being W.A.No.1380 of 1994. A Division Bench of this Court, by an order dated 22-2-1996 disposed of the writ appeal directing the petitioner to file a petition before the fourth respondent and the latter was directed to issue notice to the concerned parties and decide whether actually patta was granted to the petitioner or not. Thereafter, the Mandal Revenue Officer after conducting enquiry informed the petitioner by an order dated 1-6-1989 that no patta was granted in favour of the petitioner, that his application was rejected by order dated 27-2-1989 passed by the Settlement Officer, Nellore.

The petitioner filed a revision petition under Section 5(2) of

the Act before the Director of Settlements, who by order dated 6-8-2001, dismissed the revision holding that the order of the Settlement Officer dated 10-1-1987 does not require any interference. The petitioner's revision petition under Section 7(d) of the Act before the second respondent was also unsuccessful. Hence, he filed the present writ petition.

The main contention of the learned Senior Counsel appearing for the petitioner, Sri N.V.Ranganadham, is that by proceedings dated 6-1-1981, the petitioner was granted a patta in respect of the subject land. A typed copy of the said proceedings is annexed to the writ petition. All the respondents have taken the view that the Settlement Officer, Nellore never passed an order on 8-1-1981 and that by an order dated 10-2-1987 the application of the petitioner under Section 11(a) was rejected by the Settlement Officer. Therefore, this Court directed the learned Govt. Pleader to produce the necessary file. On 16-4-2003, the learned Govt. Pleader has produced the file bearing No. SR No.22/11(a)/86 containing pages 1 to 154, file bearing No.B/441/89/A/563/87 from the office of the Mandal Revenue Officer, Renigunta containing pages 1 to 165 and volume 2 of File in Roc.A/563/89 containing pages 301 to 358. I have gone through all the files very carefully. I have also perused all the documents annexed to the writ petition.

The learned Senior Counsel submits that the record of the Settlement Officer was tampered, that the proceedings dated 10-2-1987 did not see the light of the day till 1-9-1989 and that in the file containing the settlement records, some pages are missing. In paragraph 12 of the affidavit accompanying the writ petition, the allegations are as under.

Page 10 of the M.P.

The above allegations are self explanatory and need no further analysis. It is a simple question of verification of record. In the file bearing No.SR.No.22/11(a)/96, there is no proceedings dated 8-1-1987. A typed copy of the proceedings of the Settlement Officer dated 10-2-1987 commenced at page 147. It contains ten pages which are duly typed. Internal pagination is also put with a pen as 1 to 10. The continuation page No.147 to 156 is also there. Page No.157 form part of extract of Adangal of ....village for 1393 to 1394 Fasli and the Adangal extract starts on page No.158. Therefore, the submission that the order dated 10-2-1987 contains nine pages and page No.156 is a blank is a pigment of imagination. There is nothing like that in the file. After going

through the file, it is not possible to accept the hypothesis put forward by the learned Senior Counsel that the alleged original order dated 8-2- was removed and replaced by the order dated 10-2-1987 cannot be accepted. When the internal pagination is correct and contains ten pages, it is not possible to accept the contention merely because from p.155 the clerk/officer used red ink for pagination.

The contention that the order dated 8-1-1987 allegedly passed by the Settlement Officer runs into eight pages from pages 147 to 154 is also a pigment of imagination. The file from the office of the Mandal Revenue Officer.....contains a xerox copy of the alleged proceedings dated 8-1-1987(continuation page

I have already noticed that the order dated 10-2-1987 contains ten pages at page 147 to 156 and it contains the initials of the Settlement Officer with a date on page No.8 immediately after the order and also the schedule. Curiously, the bogus or fabricated proceedings relied on by the petitioner dated 8-2-1987 contains a full signature at page 6 after the end of the order and page 7 after the list of exhibits marked. When there is a proceedings dated 10-1-1987 at page No.147 to 156 and the file is kept during the regular course of official business, there cannot be any doubt that it is a correct order.

#### Evidence Act

The submission that the proceedings dated 8-1-1987 was tampered also cannot be accepted. Admittedly, the Mandal Revenue Officer obtained certified copy from the office of the Settlement Officer, Nellore on 17-7-1989. A certificate copy is found at page No.301 to 323 in volume 2 of File Roc.No.A/563/87 of the office of the MRO, Renigunta. I have compared this with the original proceedings dated 10-2-1987 in the file S.R.No.22/11(a)/86 and I must hold that the certified copy in the MRO's file is a true copy of the proceedings dated 10-2-1987. Therefore, the ground of tampering cannot be accepted. It must be remembered that there is a presumption in favour of the Government that all the Government records are true reflection of the proceedings and transactions undertaken by the officials in the administration. Unless there is a strong rebuttal, the Court must not come to the conclusion that the official records are tampered. The official record is not maintained by one official. An array of

subordinate officials must be a Gazetted Officer, second grade Gazetted Officer including quasi-judicial authority makes endorsement in the file which ultimately makes decision in the file. I have gone through the note file of File No,22/11(a)/86. It contains recording of all proceedings and on 14-10-1996, the Settlement Officer endorsed to the effect that evidence is closed and post for orders and thereafter the order was passed on 10-2-1987. Therefore, the submission of tampering cannot be accepted.

Whether the proceedings was issued on 8-1-1987 granting patta to the petitioner or whether proceedings was issued on 10-2-1987 refusing patta to the petitioner is a subject of the record. Preponderance of probabilities show that the petitioner's contention that patta was granted by proceedings dated 8-1-1987 stands disproved by the record. In any event, this Court, essentially is a Court of judicial review, empowered to see that decision making process is within the four corners of law and that it is not vitiated by the error apparent on the face of the record and it is in accordance with principles of fairness. The questions of fact whether patta was granted or not cannot be gone into by this Court in these proceedings under Article 226 of the Constitution. It is well settled and there is no necessity to quote any authority in support of this. Indeed, the writ appeal being W.A.No.1384 of 1981 filed by the MRO against the order in W.P.No. (filed by the petitioner for implementation of patta pursuant to proceedings dated 8-1-1981), a Division Bench of this Court made the following observations.

The questions whether patta was granted or not and, whether he is actually entitled or not are all questions to be considered by the concerned authorities. It is a pure question of fact. Therefore, we think it just and proper to direct the respondent/writ petitioner to file a petition before the Mandal Revenue Officer, Renigunta, Chittoor District, making all these pleas. On filing the said petition, the Mandal Revenue Officer, is directed to issue a notice to the concerned parties and decide whether actually patta was granted to the petitioner or not. In case patta is granted as alleged by the petitioner, the same may be implemented within two months from the date of receipt of this order. In case no patta is granted to him and he is not entitled to the patta, the question of implementation does not arise.

The observations made by the Division Bench in the earlier writ petition between the petitioner and the fourth respondent would disentitle the petitioner for again agitating the question of

fact. After perusing the order passed by the Director of Settlements and the Commissioner of Appeals, I am of the considered opinion that no exception can be taken to the order passed by the said authority.

The writ petition, for the above reasons, fails and is accordingly dismissed. There shall be no order as to costs.

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30<sup>th</sup> April 2003.

**(V.V.S.RAO, J.)**

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