**IN THE COURT OF THE COMMISSIONER OF SURVEY, SETTLEMENTS AND LAND RECORDS, A.P.HYDERABAD**

**Present : Sri M.Narayana Rao, I.A.S.**

# Commissioner

**C.SS & LR’s Case No.L3/1140/92**, **Dt. 12-09-1997**

Between:

1. Sri Badireddi Tatarao, S/o Nukaraju,.
2. Smt.Badireddi Simhachalam,

W/o. Nukaraju ... Appellants.

AND

1. Project Officer, I.T.D.A.,

R.Chodavram.

1. Kichela Lakshmayya (died)

S/o. Nukayya

Per L.Rs. 1. Ammanna (wife)

 2. K.Surya Rao (son)

 3. K.Chanda Rao (son)

 4. K.Somalingam (son)

 5. K.Nookaraju (son) ... Respondents.

##### **C.SS & LR’s Case No. L3/1142/92**, **Dt.12-09-1997**

Between:

1. Nemala Tarakamma ... Appellant.

AND

1. Project Officer,

I.T.D.A., Rampachodavarm

1. Chundru Dharmaraju,

S/o. Lakshmayya ... Respondents.

**ORDER:**

These are 2 appeals filed u/s 9 of A.P. Regulation 2/69 against the common order of the District Collector, East Godavari District in A.P. No.27/91 and 24/91 dated 30-03-1992 wherein he allowed the appeals prefered by the Respondents herein and set aside orders of the Settlement officer (Mutta Abolition) Peddapuram in Case No.2902/73 and 2790/73, Dt. 29-10-1974 and 28-10-1974 respectively, granting patta in favour of the petitioners for the subject lands.

Brief facts of the case are as follows:

The Settlement Officer conducted suo-moto enquiry in the above 2 cases for grant of ryotwari patta u/s 8 in respect of the following lands situated in the erstwhile Yellavaram taluq of East Godavari district.

Case No. Name Sy.No. Extent Mutta Village

1 2 3. 4 5 6

2902/73 Smt.Badireddy 29/1 1.99 Pandraprolu Chavitidibbala

 Simhachalam

 W/o.Nookaraju

2790/73 Smt.Nemala 22/1 1.56 Yerugonda Gummaripalem Tarakamma

 w/o. Katyayya 22/3 1.10

The Settlement officer, allowed the claims on the ground that the claimants were in continuous possession and enjoyment over the schedule lands for more than 8 years prior to the notified date.

Aggrieved by the above orders, the Project Officer, I.T.D.A., on behalf of tribals filed appeals before the District Collector who in his impugned orders cancelled the patta on the following grounds.

1. The Claimants have not obtained the permission of the Collector under Regulation 1 of 1959 to possess the land.
2. The Lease Deeds were not registered as required u/s 107 of the T.P.Act and signed by the Muttadar only and not by the Respondents and receipts were fabricated.
3. The Ryotwari Pattas wee granted without proper enquiry and scrutiny of documents by the S.O.

Aggrieved by the above orders, the appellants filed appeals before Commissioner, S.S. & L.R., on the following main grounds:

1. The Project Officer, I.T.D.A., filed an appeal before the Collector with a delay of more than 16 years. The Collector did not give any notice on the dealy condonation petition and the delay was condoned.
2. Section 5 provides for grant of patta even for non-tribals provided they are in possession for 8 years prior to the notified date. The question of taking permission under Regulation 1/59 does not arise since the land was never in possession of any non-tribal prior for 1917.
3. The Lower Court failed to note that the Agricultural leases need not necessarily be registered. An un-registered lease deed can be considered and looked into for collateral purpose.
4. Both the cases came up for final hearing before me, first on 30.12.96 when learned counsel for petitioners and Special Government Pleader wee heard and Learned Counsel for R2 absent, but were reopened at the latte’s request. On 9.7.97; the Junior for Sri Lakshmana Sarma, Counsel for the appellants and Sri G.Satyanarayana Special Government Pleader on behalf of the Respondent 1, were present and reiterated their arguments. Sri K.S.Murthy, the Counsel for the Respondent 2 was absent for the second consecutive occasion inspite of service of notice. Hence, the cases are reserved for orders on merits.

The connected records have been perused. No additional material was filed by either side before me or the Collector. Hence, the entire matter depends on the strength of the material produced before the S.O., As regards condonation of delay, neigher the Tribal Respondents nor the I.T.D.A., were parties before the S.O., and hence are not governed by Limitation with reference to those proceedings. Further, the Collector has rightly applied the principles laid down in W.A.No.1879/88 dated 11.8.89 of the A.P. High Court and AIR 1987 Supreme Court 1353, while condoning the delay even assuming the existence thereof. Hence, the first ground of appeal is rejected. As for the third ground no authority has been shown to the effect that agricultural leases need not be registered or even signed by both parties. In the circumstances, I agree with the findings of the Collector on this point with reference to S.107 of the Transfer of Property Act. A claim under legally unacceptable purported leases without Survey Nos., or local names or witnesses and not supported by production of cultivation accounts/ Adangals, the possession cannot be deemed lawful and hence the second ground also fails.

The purported receipts do not indicate the S.Nos., or local names of the land in respect of which the payment is accepted. The same claimants who stated before the Spl.Dy.Tahsildar, and Special Tahsildar that they have no lease documents or receipts with them in support of their claims produced the same before the S.O., bearing tell-tale evidence in both cases of over-writing against Eksala entry and interpolation of the date in the first case. The S.O., did not verify the relevant Estate/Village Records nor the claimants produced the certified copies there of before the Collector or this Court which leads to one to believe that the documents produced are false and created for getting patta.

Thus there are no merits in the Appeals which are dismissed.

Pronounced in the Open Court.

Sd/-

COMMISSIONER, SS. & L.R.

//ATTESTED//