

APHC010081542025



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3559]

FRIDAY, THE FOURTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

WRIT APPEAL NO: 753/2025

Writ Appeal under clause 15 of the Letters Patent to allow the Appeal and consequently allow the Writ Petition by setting aside the Order dated 26.12.2024 in WP No.30574 of 2024 and pass

Between:

1.V CHENCHIAH NAIDU, S/O.VERNA NAIDU, AGED ABOUT 61 YEARS. OCC EX-SERVICEMEN, R/O. D.NO. 19-4-123-B2-505, 5TH FLOOR, A BLOCK, MANOHARI RESIDENCY, AIR BYPASS ROAD, STV NAGAR TIRUPATI, TIRUPATI DISTRICT-517501.

...APPELLANT

AND

1.THE STATE OF AP, REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.

2.THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, STAMPS AND REGISTRATION DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT

3.THE CHIEF COMMISSIONER OF LAND ADMINISTRATION, GOVERNMENT OF ANDHRA PRADESH, MANGALAGIRI, GUNTUR DISTRICT.

- 4.THE DISTRICT COLLECTOR, TIRUPATI DISTRICT, TIRUPATI.
- 5.THE REVENUE DIVISIONAL OFFICER, SRIKALAHASTI REVENUE DIVISION, SRIKALAHASTI TIRUPATI DISTRICT, ANDHRA PRADESH.
- 6.THE TAHSILDAR, YERPEDU MANDAL YERPEDU, TIRUPATI DISTRICT, ANDHRA PRADESH.
- 7.THE DISTRICT REGISTRAR, TIRUPATI, TIRUPATI DISTRICT.
- 8.THE SUBREGISTRAR, SRIKALAHASTI, TIRUPATI DISTRICT.

...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 to condone the delay of 109 days in representing the above WA.SR.No.6023 of 2025 and pass

IA NO: 2 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 to direct the Respondents not to dispossess the Petitioner from the land total ad-measuring Ac.4.35 Cents situated in Sy.Nos.162/1A (Ac.1.50 Cents), 162/1B (Ac.0.50 Cents), 161/1A (Ac. 1.50 Cents), 161/1B (Ac.0.85 Cents) of Paagali Village, Yerpedu Mandal, Tirupathi District (erstwhile Chittoor District) and pass

Counsel for the Appellant:

- 1.M R K CHAKRAVARTHY

Counsel for the Respondent(S):

- 1.GP FOR REVENUE
- 2.GP FOR REGISTRATION AND STAMPS

Date of Reserved: 03.11.2025

Date of Pronouncement: 14.11.2025

Date of upload: 14.11.2025

The Court made the following Judgment: (Per Hon'ble Sri Justice R. Raghunandan Rao)

The appellant, who is an ex-serviceman, was assigned land admeasuring Ac.1.50 cents in Sy.No.162/1A, Ac.0.50 cents in Sy.No.162/1B, Ac.1.50 cents in Sy.No.161/1A and Ac.0.85 cents in Sy.No.161/1B, aggregating to Ac.4.35 cents, of Paagali Village, Yerpedu Mandal, Tirupathi District, on 09.06.2009, by way of DKT Patta No.222/4/1418. The appellant contends that this patta was given to the appellant under the Ex-Servicemen quota inasmuch as, the appellant had served in the Indian Army as a Subedar, in an Artillery Unit, 35 FD Regiment from 09.07.1983 to 01.08.2013.

2. The appellant had been issued, pattadar passbook bearing No.263010, along with the pattaNo.325, by the revenue authorities. The ROR 1B form also shows the name of the appellant as the pattadar of the subject land.

3. The appellant would also draw the attention of this Court to G.O.Ms.No.743, dated 30.04.1963, G.O.Ms.No.1117, dated 11.11.1993, G.O.Ms.No.307, dated 06.06.2013 and G.O.Ms.No.279, dated 04.07.2016, to contend that these Government Orders had clearly stated that an Ex-Servicemen who has been assigned land, can sell the said land after ten years from the date of assignment. He also draws the attention of this Court to the noting on the patta given to the appellant, indicating that the patta was given to an Ex-serviceman.

4. The appellant, on the basis of these Government Orders, sought to sell the land assigned to him, in the year-2019. At that stage, the appellant

was informed that the land had been placed in the prohibitory list maintained under Section-22-A of the Registration Act, 1908 [for short “the Act, 1908”] and no documents can be registered in relation to this land. Aggrieved by the said action, the appellant had moved this Court by way of W.P.No.2293 of 2019, which came to be disposed of on 26.02.2019. Writ Appeal No.103 of 2019, filed against this Order, was also disposed of, by a Division Bench of this Court, by Judgment, dated 26.06.2019, directing the respondents to consider the case of the appellant in accordance with law and after taking into consideration, the Judgment of a Full Bench of erstwhile High Court of Andhra Pradesh at Hyderabad, in the case of *Vinjamuri Rajagopala Chary Vs. State of Andhra Pradesh*¹. The appellant, in compliance of the said directions, had moved an application, dated 09.05.2022, requesting the respondents to de-notify his land from the list of prohibited properties. As no action has been taken on his application, the appellant moved W.P.No.17391 of 2023, before this Court. The same came to be disposed of, by a Learned Single Judge of this Court, by an Order dated 17.07.2023, directing the respondents to dispose of the application of the appellant, within a period of eight weeks. Thereafter, the District Collector, Tirupati, by proceedings, dated 14.11.2023, rejected the application of the petitioner to remove the land from the list of prohibitory properties, on the ground that the said land is a forest land and cannot be alienated.

¹2016 (2) ALD 236 (FB)

5. Aggrieved by this Order of the District Collector, dated 14.11.2023, the appellant approached this Court by way of W.P.No.30574 of 2025 and this Writ Petition came to be disposed of by a Learned Single Judge of this Court, on 26.12.2024, relegating the appellant to the alternative remedy of an appeal before the Chief Commissioner of Land Administration. Aggrieved by the same, the appellant has approached this Court by way of the present Writ Appeal.

6. Sri M.R.K. Chakravarthy, learned counsel for the appellant would submit that a Writ Petition was maintainable, firstly, on the ground that the said appeal is not a statutory appeal and secondly, on the ground that the impugned order of the District Collector is vitiated by non application of mind and based on incorrect record.

7. The District Collector, after receiving the Orders of this Court, in W.P.No.17391 of 2023, had sought a report from the Tahsildar, Yerpedu and the Revenue Divisional Officer, Srikalahasti, regarding the land of the appellant. In the report submitted to the District Collector, the Revenue Divisional Officer and the Tahsildar, reported that the land had been assigned to the appellant, while he was serving in the army and such an assignment is irregular as land can be assigned only to serving members of the armed forces. The report also stated that the land was classified as "Adavi Taka (UAW)". It was further reported that this land was originally part of Sy.No.130, which was classified as Adavi Taka and no change of classification from Adavi Taka to assessed waste dry was available in the office of the Tahsildar or the

Revenue Divisional Officer. The District Collector understood the term “Adavi Taka” to mean “Adavi Poramboke”. The District Collector on the basis of this report and relying upon the Judgment of the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, in W.P.No.31455 of 2018, dated 04.09.2018, had held that granting of pattas in forest land is prohibited and as such the property would have to remain in the list of prohibitory properties maintained under Section 22-A of the Act, 1908. The District Collector took the view that any assignment of land classified as Adavi Poramboke would have to be done only with prior approval from the Central Government and no such permission was taken prior to the assignment of land in favour of the appellant.

8. Sri M.R.K. Chakravarthy, learned counsel for the appellant would submit that the alleged alternative remedy of an appeal, arises out of circular instructions issued by the Chief Commissioner of Land Administration, in CCLA's Ref.No.Assn.I(1)/351/2022, dated 20.05.2022. He would submit that the circular of the Chief Commissioner of Land Administration, creating a right of appeal to the Commissioner of Appeals, is without any statutory basis as a circular of the Chief Commissioner of Land Administration, cannot be treated as a statutory proceeding which has the authority of law to create a right of appeal. He would also submit that the Learned Single Judge could not have relegating him to an alternative remedy which has no statutory basis. We do not propose to go into this ground, in view of the disposal of this appeal and the said question is left open.

9. Sri M.R.K. Chakravarthy, learned counsel for the appellant would also draw the attention of this Court to the ROR 1B Form which shows that the land assigned to the appellant, has been categorized as “Punja” and there is no mention of said land being treated as Adavi Poramboke.

10. Sri M.R.K. Chakravarthy, would contend that the objection of the Tahsildar and the Revenue Divisional Officer to assignment of land to the appellant, even while he was in service is misplaced. He would submit that land can always be assigned to servicemen, even when they are in the service of the Armed Forces. He would rely upon the circular of the Chief Commissioner of Land Administration, dated 04.05.2022, bearing CCLA’s Lr.No.Assn.I(1)/350/2022, dated 04.05.2022. In this circular, the Chief Commissioner states that application for assignment to the Ex-Servicemen/Serving Soldiers shall be made only to the District Sainik Welfare Officer and the Revenue Authorities are to consider only applications routed through the District Sainik Welfare Officer. He would submit that the said circular clearly permits applications being made by serving soldiers also.

11. Sri M.R.K. Chakravarthy, would submit that the report of the Revenue Divisional Officer and the Tahsildar, stating that the land in question has been classified as Adavi Poramboke is totally incorrect. He further submits that the land in question was actually classified as “Taka Adavi”. He would submit that report of the Tahsildar, dated 07.11.2022, which was obtained by the appellant through the Right to Information Act, specifically states that Sy.No.130 was classified as “Taka Adavi” (unassessed waste). He

would submit that the word “Taka Adavi” means “unassessed” and the same cannot be treated as forest land to which the provisions of the Forest (Conservation) Act, 1980 [for short “the Act, 1980”], would be applicable.

12. The learned Assistant Government Pleader for Revenue, appearing for the respondents, would submit that the appellant has raised various questions of fact, which require a detailed inquiry and the appropriate forum for such an inquiry would be the appellate forum of the Commissioner of Appeals. He would submit that the impugned order of the District Collector, does not suffer from any infirmity of violation of the principals of natural justice or lack of jurisdiction. He would submit that, in such circumstances, it would only be appropriate that the appellant is relegated to the alternative remedy of appeal.

13. The learned Assistant Government Pleader for Revenue would contend that the classification of land, in Sy.No.130 (old), corresponding to the present Sy.No.161 is Adavi Poramboke which would fall within the meaning of forest under the provisions of the Act, 1980. Consequently, the Judgment of the erstwhile High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, in W.P.No.31455 of 2018, would be squarely applicable.

14. The present controversy revolves around two aspects. Firstly, whether serving members of the Armed Forces, can be assigned lands, under the category of Ex-Servicemen and secondly, the nature of the land which has been assigned to the appellant.

15. This Court had not been shown any provision of law nor has any material been placed before this Court, to support the contention that only Ex-Servicemen can be assigned land under the Ex-Servicemen quota and no serving member of the Armed forces can be assigned land. Further, the circular of Chief Commissioner of Land Administration, referred to, by the learned counsel for the appellant, clearly provides for assignment of the land to the serving members of the armed forces. In such a situation, the lands assigned to serving members of the Armed Forces, cannot be resumed nor can such an assignment be treated as illegal or irregular. The objective of assigning land to Ex-Servicemen is as a measure of demonstrating the gratitude of the nation to persons defending its borders and people. It is also, in a manner, an incentive for volunteers who serve, in the Armed Forces of India. Such an objective, cannot be whittled down, by bureaucratic procedure and officials raising a contention that serving members of the Armed Forces should not be assigned land.

16. The District Collector, in the impugned order, recorded that the report submitted by the Tahsildar and the Revenue Divisional Officer, had stated that the land in question was classified as Adavi Poramboke land. The report of the Tahsildar, Yerpedu, dated 07.11.2022, obtained by the appellant through the Right to Information Act and placed before this Court, states clearly that the land in Sy.No.130 is an extent of Ac.217.28 cents and is classified as "Taka Adavi (UAW)". It is not clear as to how the District Collector, came to the conclusion that this report of the Tahsildar had

classified the land as “Adavi Poramboke” which has an entirely different connotation and consequence.

17. In the circumstances, it is clear that the District Collector has neither applied his mind to the report given by the Tahsildar or has based his decision on material which was not available in the report of the Tahsildar. However, the order of the District Collector does not refer to any such additional material. Consequently, the only conclusion that can be drawn by this Court is that the District Collector had mechanically passed this Order, without considering the difference between the term of Taka Avadi and the term of Adavi Poramboke.

18. For all the above reasons, it is held that the patta granted to the appellant, cannot be set aside, on the ground that the land was assigned to him while he was still serving in the army.

19. On the question of the nature of the land involved, the record, available with the authorities, as reported by the Tahsildar, in his report, dated 07.11.2022, clearly shows that the lands classified as Taka Avadi and not Adavi Poramboke. As rightly pointed out by the learned counsel for the appellant, the term Taka Adavi essentially relates to land which is in an ambiguous situation of neither being a forest nor a patta land as it is treated as unassessed waste land. In such circumstances, it would only be appropriate to allow this Writ Appeal with a direction to the District Collector, Tirupati, to pass appropriate proceedings, deleting the land assigned to the appellant from the prohibitory list, within a period of three months from the

date of this Order. In the event of the District Collector not deleting the land of the appellant from the prohibitory register, it would be open to the appellant, to transfer his land, after the aforesaid period of three months, by presenting a document of transfer to the concerned Sub-Registrar. Upon such presentation, after the lapse of the aforesaid period of three months, the Sub-Registrar shall process and register the document, subject to requirements of law and without reference to inclusion of this land in the prohibitory list maintained under Section 22-A of the Act, 1908.

20. Accordingly, this Writ Appeal is allowed. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

R RAGHUNANDAN RAO, J

JUSTICE SUBHENDU SAMANTA

Date: 14.11.2025
BSM

HON'BLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

WRIT APPEAL No.753 of 2025

(per Hon'ble Sri Justice R. Raghunandan Rao)

14-11-2025

BSM