

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE SIXTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT APPEAL NO: 14 OF 2025

Writ Appeal under clause 15 of the Letters Patent filed against the order Dated.11/12/2024 in writ petition No 17683 of 2024. on the file of the High Court.

Between:

1. Chenamma, W/o Late Ramulu, D/o Late Venkaiah, aged about 40 years, Occ. Agriculture, R/o Chintalapally Village, Pudur Mandal, Vikarabad District, Telangana State.
2. Venkatamma, W/o Yadaiah, Aged about 43 years, Occ. Agriculture, R/o Chintalapally Village, Pudur Mandal, Vikarabad District, Telangana State.
3. Balakistaiah, S/o Chandraiah, Aged about 48 years, Occ. Agriculture, R/o Chintalapally Village, Pudur Mandal, Vikarabad District, Telangana State.
4. Buchaiah, S/o Kistaiah, Aged about 37 years, Occ. Agriculture, R/o Chintalapally Village, Pudur Mandal, Vikarabad District, Telangana State.
5. Begari Mallesh, S/O Kistaiah @ Begari Kistaiah, Aged about 32 years, Occ. Agriculture, R/o Chintalapally Village, Pudur Mandal, Vikarabad District, Telangana State.

...APPELLANTS/RESPONDENTS No.5 TO 9

AND

1. B.Bugaiah, S/o B. Thiramalaiah, Aged about 61 years, Occ. Agriculture, R/o Chintalapally Village, Pudur Mandal, Vikarabad District, Telangana State.
2. B. Laxmaiah, S/o B. Thiramalaiah, Aged about 73 years, Occ. Agriculture, R/o Chintalapally Village, Pudur Mandal, Vikarabad District, Telangana State.
3. B. Anthaiah, S/o B. Thiramalaiah, aged about 71 years, Occ. Agriculture, R/o Chintalapally Village, Pudur Mandal, Vikarabad District, Telangana State.

**...RESPONDENTS/
WRIT PETITIONERS No.1 TO 3**

4. The State of Telangana, Rep. by its Secretary, Dept of Revenue, Secretariat, Hyderabad.
5. The District Collector, Vikarabad District, Telangana.
6. Revenue Divisional Officer, Pudur Mandal, Vikarabad District, Telangana.
7. the Tahsildar-cum-Sub-Registrar, Pudur Mandal, Vikarabad District, Telangana.

...RESPONDENTS/RESPONDENTS

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 direct revenue authorities to continue the name of the appellant No.5 in all revenue records in respect of the land of the appellants lands in Sy.No.80/A to an extent of Ac.5.17 gts which is situated at Chinthalapalli Revenue Village, Pudur Mandal, Vikarabad District pending disposal of the writ appeal.

Counsel for the Appellants: SRI RAPOLU BHASKAR

**Counsel for the Respondent Nos.1 TO 3: SRI MANOJ VISHWANATH FOR M/s.
OM LAW FIRM**

**Counsel for the Respondent Nos.4 TO 7: SRI KATRAM MURALIDHAR REDDY,
GP FOR REVENUE**

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT APPEAL NO. 14 OF 2025

JUDGMENT: *(Per the Hon'ble Sri Justice J. Sreenivas Rao)*

This intra court appeal has been filed aggrieved by the common order dated 11.12.2024 passed by the learned Single Judge in Writ Petition No.17683 of 2024 whereunder the learned Single Judge disposed of the writ petition filed by respondent Nos.1 to 3.

2. Heard Sri Rapolu Bhaskar, learned counsel for the appellants, Sri Manoj Vishwanath, learned counsel representing M/s. Om Law Firm appearing on behalf of respondent Nos.1 to 3 and Sri Katram Muralidhar Reddy, learned Government Pleader for Revenue appearing on behalf of respondent Nos. 4 to 7. With the consent of respective parties, the writ appeal is disposed of at the stage of admission.

3. **Brief facts of the case:**

3.1 Facts giving rise to filing of this writ appeal briefly stated are that the appellants are claiming that they are owners and possessors of agriculture land to an extent of Ac.5-17 guntas in Sy.No.80/A situated at Chintalapally, Pudur Mandal, Vikarabad District and the grandfather of appellant No.5 namely B.Balaiah @ Begari Balaiah

was the protected tenant and the competent authority issued 38-E certificate under the provisions of Telangana Tenancy and Agricultural Lands Act, 1950 (hereinafter referred to as 'the Act') and pursuant to the same, his name was mutated in the revenue records and pattadar pass books were issued. After his death, father of appellant No.1 and other family members have issued no objection to mutate the name of appellant No.5 and his name was mutated in the revenue records and pattadar pass book and title deeds were issued. Respondent Nos.1 to 3 without having any right or interest over the subject property filed writ petition questioning the action of the respondents in not considering the representation dated 28.05.2024 and recall the order passed on the grievance application of mutation and succession made in favour of appellant No.5 and pass the fresh order on the online application of mutation and succession and making changes in Dharani portal and issue patta pass books to them and direct respondent No.7 not to entertain any registration upon the registration application No.2400361974 submitted by the appellant No.5 in respect of the subject land of Ac.5-17 guntas.

3.2 Respondent Nos.1 to 3 are claiming that the subject land originally belongs to the ancestors of B.Balaiah and late B.Thirumalaiah. However, 38-E certificate was issued in favour of late B.Balaiah and respondent Nos.1 to 3 are legal heirs of late B.Thirumalaiah and they are having substantial rights in the subject

property and in spite of representation submitted by them to the official respondents, they have not taken any action. Respondent Nos.1 to 3 have filed another Writ Petition No.14538 of 2024 seeking direction to the respondents therein to consider the representation dated 28.05.2024 and not to pass any order on the grievance application No.2400122756 submitted by the appellants herein without giving notice to them and make changes in Dharani portal and issued pattadar pass books to the appellants and also sought direction to respondent No.7 not to entertain any registration of the subject lands.

3.3 The learned Single Judge clubbed the above two writ petitions and passed the common order dated 11.12.2024 holding that there are *inter se* disputes between the appellants and respondent Nos.1 to 3 herein, with regard to right, title and possession over the subject property and respondent Nos.1 to 3 are claiming rights over the subject lands as successors in interest through late B.Thirumalaiah and they have not taken steps to question the 38-E certificate issued in favour of late Begari Balaiah. However, learned Single Judge disposed of the writ petition without going into the merits of the case relegating respondent Nos.1 to 3 to make an appropriate application before respondent No.6-the Revenue Divisional Officer, Pudur Mandal, Vikarabad District questioning the issuance of 38-E certificate in the name of Begari Balaiah in respect of lands in

Sy.No.80/A situated at Chintapally Village, Pudur Mandal, Vikarabad District. On such application, respondent No.6 is directed to conduct a detailed enquiry with regard to the eligibility of respondent Nos.1 to 3 as well as the appellants for grant of 38-E certificate in respect of the said lands under the provisions of the Act, and pass appropriate orders, in accordance with law. In the event, respondent Nos.1 to 3 are entitled for grant of certificates in their favour, the respondent authorities shall mutate names of respondent Nos.1 to 3 in the revenue records and issue pattadar pass books. The said entire exercise shall be completed within a period of six months, from the date of receipt of copy of the order. Till such completion of the enquiry, both the parties are directed to maintain *status quo* in respect of the subject lands and respondent No.7 shall not entertain any document in respect of the subject property. Thus, the appellants filed this writ appeal.

4. **Submissions of learned counsel for the appellants:**

4.1 Learned counsel for the appellants submitted that respondent Nos.1 to 3 are not having any semblance of right over the subject property. Admittedly, late Begari Balaiah was the protected tenant and the competent authorities after following due procedure as contemplated under the provisions of the Act, granted 38-E certificate dated 10.12.1990 and the same has become final. Pursuant to the said certificate, his name was mutated in the

revenue records and subsequent to his death, the name of appellant No.5 who is grandson of protected tenant, was recorded in the revenue records.

4.2 He further submitted that late B.Thirumalaiah and late B.Kistaiah, who is father of appellant No.5 are not the sons of late Begari Balaiah. Learned Single Judge without verifying the records, wrongly held that respondent Nos.1 to 3 are co-sharers of the subject land as legal heirs of late B.Thirumalaiah and the said late B.Thirumalaiah and Begari Balaiah are brothers, and respondent Nos.1 to 3 are not entitled to claim any rights over the subject property.

4.3 He further submitted that the learned Single Judge while observing that there are serious disputes between the appellants and respondent Nos.1 to 3 in respect of the subject property and ought to have dismissed the writ petition. On the other hand, directed respondent Nos.1 to 3 to make an application before the Revenue Divisional Officer questioning 38-E certificate issued in favour of Begari Balaiah in respect of subject land, is contrary to law.

4.4 He further submitted that even before establishing their rights over the subject property by respondent Nos.1 to 3, the learned Single Judge issued direction to both the parties to maintain *status quo* till the disposal of the application which is going to be submitted

by respondent Nos.1 to 3 before the Revenue Divisional Officer and also issued consequential direction to respondent No.7 not to entertain any document in respect of the subject property, is contrary to law.

Submissions of learned counsel for respondent Nos.1 to 3:

5. *Per contra*, learned counsel for respondent Nos.1 to 3 submitted that the father of respondent Nos.1 to 3 namely late B.Thirumalaiah and late Begari Balaiah are own brothers and 38-E certificate was issued in favour of late Begari Balaiah and their father is a co-sharer of the subject property and appellant No.5 is not entitled to seek exclusive rights over the subject property. Basing on the entries made in the revenue records, the appellant No.5 is claiming exclusive rights over the subject property. The learned Single Judge has rightly passed the impugned order and the writ appeal filed by the appellants is liable to be dismissed.

Analysis:

6. We have considered the rival submissions made by the respective parties and perused the material available on record. It is an undisputed fact that the competent authority issued 38-E Certificate in respect of the subject land in favour of late Begari Balaiah vide proceedings No.H/52211/1986, dated 10.12.1990 and appellant No.5 who is the grandson of the protected tenant namely

B.Balaiah, is claiming rights over the subject property. Whereas respondent Nos.1 to 3 are claiming rights in the subject property through late B.Thirumalaiah. The learned Single Judge while disposing of the writ petition rightly held in para-10 that there are serious *inter se* disputes between respondent Nos.1 to 3 and the appellants with regard to right, title and possession over the subject property and respondent Nos.1 to 3 have not questioned the issuance of 38-E certificate issued in favour of late Begari Balaiah before the competent authority. In such circumstances, the learned Single Judge ought to have dismissed the writ petition and directed respondent Nos.1 to 3 to avail the remedies as available under law. On the other hand, the learned Single Judge disposed of the writ petition relegating respondent Nos.1 to 3 to make an appropriate application before the Revenue Divisional Officer questioning the issuance of 38-E certificate in the name of late Begari Balaiah in respect of the subject property and issued other directions to conduct detailed enquiry with regard to the eligibility of respondent Nos.1 to 3 as well as the appellants for grant of 38-E certificate in respect of the subject property and till such enquiry is completed, the parties are directed to maintain *status quo* in respect of the subject land and issued further direction to respondent No.7 Tahasildar not to entertain any document in respect of the subject property. This Court is of the considered view that the learned Single

Judge ought not have issued directions contained in para No.11 of the impugned order, and the same is excess of jurisdiction. Accordingly the same is set aside.

7. However, respondent Nos.1 to 3 are granted liberty to avail the remedies as available under law claiming rights over the subject property including questioning 38-E certificate dated 10.12.1990. In the event, respondent Nos.1 to 3 succeed in the said proceedings, the appellants are not entitled to claim any equities. It is made clear that this Court has not expressed any opinion on the merits of the case in respect of the subject property.

8. With the above modifications, the writ appeal is disposed of. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

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SD/- T. KRISHNA KUMAR
DEPUTY REGISTRAR

SECTION OFFICER

To

1. The Secretary, Dept of Revenue, Secretariat, Hyderabad, State of Telangana.
2. The District Collector, Vikarabad District, Telangana.
3. Revenue Divisional Officer, Pudur Mandal, Vikarabad District, Telangana.
4. The Tahsildar-cum-Sub-Registrar, Pudur Mandal, Vikarabad District, Telangana.
5. One CC to SRI RAPOLU BHASKAR, Advocate [OPUC]
6. One CC to M/s. OM LAW FIRM, Advocate [OPUC]
7. Two CCs to GP FOR REVENUE, High Court for the State of Telangana, at Hyderabad. [OUT]
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PSK.
GJP

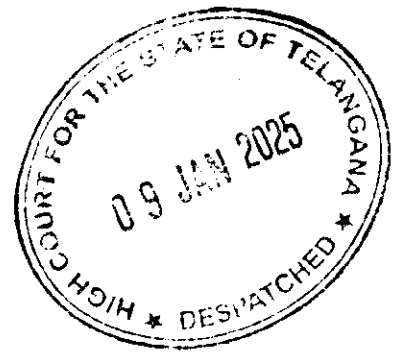
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HIGH COURT

DATED:06/01/2025

JUDGMENT

WA.No.14 of 2025



DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS

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