

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS. 5806 OF 2000

Mallepudi Venkatarao

...Appellant (s)

VERSUS

State of A.P.

...Respondent(s)

ORDER

1. This appeal is directed against the Judgment and order dated 17th of February, 2000 of the High Court of Andhra Pradesh at Hyderabad in CRP No. 2706 of 1994.
2. On a perusal of the Judgment of the High Court, we find that while deciding the Civil Revision case, the High Court had not at all taken into consideration the report of the Commissioner in its true effect without giving further opportunity to the petitioner to defend his case in consonance with the findings of the Commissioner in his report.
3. The High Court, in its impugned order, had rejected the report of the Commissioner and refused to exclude the lands covered by Hayrick mounds, Bodis, Canal bunds, cattle shed, thrashing floor, which are non-agricultural land and do not come within the definition of the land.
4. In view of the above, we feel it appropriate to set aside the order of the High Court and send the case to the High Court for a decision afresh in

accordance with law, after giving due weight to the report of the Commissioner.

5. Accordingly, the impugned order is set aside and the matter is remitted back for a fresh decision of the High Court in accordance with law within six months from the date of communication of this order. The appeal is thus allowed to the extent indicated above. There will be no order as to costs.

.....
.....J.
[Tarun Chatterjee]

New Delhi;
July 16, 2008.

.....J.
[Aftab Alam]