

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLR SRI JUSTICE S.RAVI KUMAR

WRIT APPEAL NO.808 OF 2015

JUDGMENT: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

The order under appeal is the order passed in W.P.No.25110 of 2009 which was filed by the first respondent herein questioning the order passed by the Tahsildar dated 21.11.2003 whereby the name of the fourth respondent herein was mutated in the revenue records.

The case of the first respondent herein, before the learned Single Judge, was that the said order was passed in violation of principles of natural justice. By the order under appeal, the learned Single Judge permitted the petitioner to file an appeal before the Revenue Divisional Officer (RDO) within a period of four weeks; the appellate authority was directed to take the appeal on file without reference to the delay that had occasioned during the pendency of the Writ Petition; and to dispose of the appeal within a period of three months from the date of receipt of the appeal.

As is evident from the death certificate enclosed, the fourth respondent herein (the third respondent in the Writ Petition) died on 22.05.2004, nearly five years prior to the filing of the Writ Petition. While the first respondent herein claims to be unaware of the death of the fourth respondent herein, the fact remains that the order, in the Writ Petition, was passed against a dead person. It is no doubt true that, in a connected Writ Petition i.e., W.P.No.25571 of 2009, the sixth respondent herein (the son of the fourth respondent herein) was a party. It is, however, evident from the affidavit filed in support of the appeal, that he is not the sole legal heir of the deceased-fourth respondent and, in addition to the appellants who are the daughters of the deceased, the fifth respondent, who is the widow of the fourth respondent, is also his legal heir. Now that all the parties are before

the Court, we consider it appropriate to set aside the order under appeal and remand the matter to the learned Single Judge to consider the Writ Petition afresh after giving the first respondent in the Writ Appeal (writ petitioner), the official respondents therein, the appellants herein, and respondent Nos.5 and 6 herein, a reasonable opportunity of being heard.

The Writ Appeal is accordingly allowed, and the order under appeal dated 04.12.2014 is set aside. The matter is remanded to the learned Single Judge for his consideration afresh, and in accordance with law. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

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(RAMESH RANGANATHAN, J)

(S.RAVI KUMAR, J)

31st August 2015
RRB