

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 2443 of 2012

ORDER:

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Heard learned counsel for the petitioners, learned Government Pleader for Revenue and learned counsel appearing for the fourth respondent. With the consent of all the parties, the writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of a writ of mandamus declaring the orders of the first respondent vide proceedings No.D.Dis (E10) 3702/2005 dated 08.12.2011 in directing the second respondent to cancel the pattadar passbooks and title deeds granted to petitioner Nos.2 to 4 in respect of ac.33.52 cents, 17.51 cents and 36.91 cents respectively in all Ac.87.94 cents of dry land comprised in Sy.Nos. 5 to 9, 20, 21, 22, 313 and 316 situated in Vedicherla Village, Gudur Mandal, SPSR Nellore District, in the year 2003 by following due procedure, without providing reasonable opportunity to the petitioners as illegal, arbitrary, unjust and without jurisdiction and violative of principles of natural justice; and consequently set-aside the same.

The short point that arises for consideration is that whether an appeal would lie against the order for cancellation of pattadar pass books under Section 5 (5) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short "the Act").

The issue is no more *res integra* in view of the judgment of this Court in W.P.No.21689 of 1999, wherein a Division Bench of this Court held as under:

“It is well settled that the right of appeal must find its source in legislative authority. The right of appeal accrues to the litigant when it is expressly provided for in the statute and axiomatic that the right of appeal is a substantive right and must be conferred by a statute. As already held, appeal is provided for against the original proceedings or substantive determination under Sections 4,5 and 5-A of the Act. The Legislature in its wisdom and noticing the purpose of issuing PPB/TD did not provide right of appeal against mere issuance of PPB/TD under Section 6-A of the Act. Therefore, on the literal construction of Sections 3 to 6-A of the Act, it can be held that the remedy of appeal under Section 5 (5) of the Act is not provided against the issuance of PPB/TD under Section 6-A of the Act. By treating the action under Sections 5 and 6-A of the Act as single or mutually dependent, in our considered view, the remedy of appeal against mere issuance of PPB/TD under Section 6-A of the Act is not available.”

In view of the judgment referred to above and having regard to the facts and circumstances stated above, the writ petition is disposed of, giving liberty to the petitioners to avail the remedies available under the Act. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

26.08.2015
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