

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

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WRIT PETITION No.24040 of 2015

BETWEEN

Shaik Alla Basha and two others.

... PETITIONERS

AND

The State of Andhra Pradesh, Rep. by its Principal Secretary, Revenue Department, Secretariat, Hyderabad and others.

...RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 26.08.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals? | No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | No |

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ORDER:

Heard learned counsel for the petitioner and learned Government Pleader.

2. The order impugned is one passed by the Commissioner (Appeals), Office of the Chief Commissioner of Land Administration, second respondent, in proceedings No.P1/959/2008 dated 04.02.2015 whereunder the revision petition of the petitioners was disposed of remanding the matter to the Joint Collector cum Settlement Officer, Chittoor, to examine the documentary evidence and all relevant records and pass orders on merits.

3. Petitioners seek grant of patta under the Estate Abolition Act 1948 and the said proceedings, as per the aforesaid order, are now remanded back to the Settlement Officer cum Joint Collector for fresh consideration. However, while the order of remand is not questioned by the petitioners, the present writ petition is filed to the extent of findings recorded by the Commissioner, on merits, while remanding the matter, in particular, the findings in the penultimate para, extracted hereunder, shows that the Commissioner finds the case of the petitioner fit for dismissal but in later para remanded the matter for fresh consideration.

“In view of the above, this is a fit case for dismissal but however, in the absence of documentary evidence which were marked as exhibits P1 to P8, it cannot be decided whether the Lower Court order is not correct or not.”

4. Learned counsel for the petitioners states that if findings are recorded by the Commissioner, no purpose would be served by the remand proceedings, as all the authorities below the Commissioner would be bound by the said observations/findings.

5. I find merit in the said contention, as the observations/findings of the Commissioner, on merits, would render remand ineffectual,

as the authorities below would be bound by the said observations/findings and there will not be any independent adjudication of the proceedings of remand. In fact, while issuing notice in the writ petition on 03.08.2105, the aforesaid aspect was specifically mentioned.

6. Instructions received by the learned Government Pleader are also only relating to the merits of the matter and as such, do not throw any light on the question above.

7. Keeping in view the principles of fairness and substantial justice, in my view, the observations/findings recorded by the Commissioner on merits of the matter including the para, extracted above, are required to be set aside and vacated so that on remand all the authorities below would be free to adjudicate the case on merits in accordance with law and uninfluenced by any observations of the Commissioner.

The writ petition is disposed of. The impugned order is modified by deleting the paras extracted above. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

August 26, 2015
DSK