THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Appeal No.873 of 2016

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri P. Gangaiah Naidu, learned Senior Counsel appearing on behalf of the appellant and the learned Government Pleader for Revenue. Though the name of Sri Y. Narasimha Reddy, learned counsel for the 1st respondent is printed in the cause list, neither is he present nor is there any representation on his behalf.

This appeal, under Clause 15 of the Letters Patent, is preferred by the 5th respondent in Writ Petition No. 7087 of 2008 aggrieved by the order of the learned Single Judge dated 13.7.2016, to the limited extent he set aside the findings of the Special Commissioner and the Director of Settlements in R.P. No. 290/84(H1) dated 9.8.2000, and the Commissioner of Appeals in Proceedings dated 16.3.2006, as regards Acs.1.26 cents claimed by the 6th respondent, as unsustainable.

Writ Petition No. 7087 of 2008 was heard along with Writ Petition Nos. 20133 of 2007 and 14230 of 2008. All the three writ petitions arose out of the order passed by the Director of Settlements dated 9.8.2000 and the order of the Commissioner of Appeals dated 16.3.2006, as communicated on 3.5.2006. As the learned single Judge has dealt with the facts in great detail, it is wholly unnecessary for us to note these facts once again in this order.

Suffice it, for limited purposes of this appeal, to note that a ryotwari patta was granted to the 6th respondent herein for an extent of Acs.2.65 cents on 30.6.1982. The appellant claimed to have purchased an extent of Acs.1.26 cents from out of Acs.2.65 cents in Survey No. 31/1A of Mangalam Village under the unregistered sale deed dated 19.8.1982. The Director of Settlements initiated a suo motu revision wherein the 1st respondent herein impleaded himself claiming that his father had purchased an extent of Acs. 0.62 cents by way of sale deed dated 15.2.1985. The suo motu revision was dismissed by the Director of Settlement by his order dated 9.8.2000 against which the Mandal Revenue Officer preferred a revision to the Chief Commissioner of Land Administration; in the said revision, both the son of the 6th respondent and the 1st respondent herein impleaded themselves as parties; the Commissioner dismissed the revision holding that the Mandal Revenue Officer lacked jurisdiction to file a revision against the order of Director of Settlement. He, however, also recorded a finding regarding the appellant's claim of title over Acs.1.26 cents, from out of the Acs. 2.65 cents for which ryotwari patta was granted to the 6th respondent on 30.6.1982. Aggrieved thereby, the son of the 6th respondent, the 1st respondent herein, and the Mandal Revenue Officer filed three writ petitions before this Court and a common order was passed on 13.7.2016 disposing of all the three writ petitions.

In the present appeal, we are concerned only with the order passed by the learned Single Judge in Writ Petition No. 7087 of 2008 dated 13.7.2016 to the limited extent he set aside the order passed by the Special Commissioner and the Director of Settlements dated 9.8.2000, and the Commissioner of Appeals dated 16.3.2006, with respect to the Acs.1.26 cents of land which the appellant herein claims to be the owner of.

In the order under appeal, the learned Single Judge found force in the contention of the learned counsel appearing on behalf of the 1st respondent that the Commissioner of Appeals could not have given any finding on the purchase of Acs.1.26 cents by the appellant herein in a revision filed by the Mandal Revenue Officer, Tirupati (Urban), while holding that the Mandal Revenue Officer was not an affected party by the order passed by the Settlement Officer, Nellore. The Learned Judge held that this was because the very appeal was not maintainable, it was to be dismissed, and no finding of this nature should have been given; and, therefore, the findings both of the Special Commissioner and Director of Settlements dated 9.8.2000 and the Commissioner of Appeals in Proceedings dated 16.3.2006, as regards Acs.1.26 cents claimed by the appellant herein, could not be sustained. To this extent, the writ petition was allowed.

The only submission put forth by Sri P. Gangaiah Naidu, learned Senior Counsel appearing on behalf of the appellant, is that the aforesaid findings recorded by the learned Single Judge, in the order under appeal, may be construed by the Civil Court in A.S.No. 88 of 2004 filed by the 1st respondent herein, or in civil proceedings which may be instituted by the son of the 6th respondent later, as the conclusion of this Court that the appellant did not have title over Acs.1.26 cents of land, which he had purchased from the 6th respondent by way of an unregistered sale dated 19.8.1982, and which was later validated in O.S.No. 120 of 1996 (suit for declaration of title filed by the 1st respondent herein) on 12.4.2000.

As noted hereinabove the learned Single Judge set aside the aforesaid findings of the Commissioner on the ground that he ought not to have examined the revision on its merits, after holding that the revision, preferred by the Mandal Revenue Officer, was not maintainable. As the Commissioner held that the Mandal Revenue Officer lacked jurisdiction to prefer a revision, the revision ought to have been dismissed as not maintainable, and the Commissioner was not justified in recording any finding regarding the title of the appellant herein over Acs.1.26 cents of land. Likewise the order under appeal, passed by the learned Single Judge, cannot also be understood as holding that the appellant herein either has, or does not have, title over the said extent of Acs.1.26 cents of land. All that the learned Single Judge has held is that no finding, regarding the appellant's title, should have been recorded by the Commissioner. That does not, however, mean that this Court has expressed any opinion, one way or the other, regarding the appellant's claim of title over the said extent of Ac.1.26 cents of land. The Court below in A.S.No. 88 of 2004, or in any suit instituted by the son of the 6th respondent, shall adjudicate the appellant's claim of ownership of Acs. 1.26 cents on its merits uninfluenced by any observations made by the learned Single Judge in the order in Writ Petition No. 7087 of 2008 dated 13.7.2016, or in the order of the Director of Settlements dated 9.8.2000, or in the order of Chief Commissioner of Land Administration dated 16.3.2006.

The writ appeal is, accordingly, disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

20th September 2016

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Date: 20.09.2016

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