

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P.No.4731 OF 2016

ORDER :

This revision petition is maintained against the impugned rejection order dated 05.08.2016 in OP (SR) No.10879 of 2016 of the Chief Judge, City Civil Court, Hyderabad from objection taken regarding maintainability to number the application under Sections 9 read with 24 (2) of A.P. (Telangana Area) Abolition of Inams Act, 1955 amended of 1985 (for short 'the Act').

2. Heard. Perused the material on record.

3. The observations of the trial Court in rejecting the un-numbered original petition claim is that remedy is a suit and not original petition invoking the provisions of the Act. For that the learned Judge referred two expressions, one relied on by the learned counsel for the revision petitioner of the un-numbered petition supra in **A.P.Punjabi Sabhra v The Joint Collector**¹ and the other referred by the learned trial Judge is in **State of A.P., v. B.Venkatamma and others**². The first one for short, **A.P.Punjabi Sabhra** is outcome of interpretation of the Constitution of the Tribunal, a special authority that what is referred in Section 24 of the Act. In fact, it is clarified no doubt, that law is otherwise clear of, among Sections 3 to 10 of the Act, Section 9 is for non-

¹ 2004(5) ALD 644

² 2004(5) ALD 605

agricultural lands, Sections 4 to 8 are for agricultural lands, Section 10 is enquiry by Collector in respect of Sections 4 to 8 only. Thus, Section 10 has no relation to Section 9, but for Sections 4 to 8 supra.

4. For Sections 9 and 10, the co-related Section is Section 24. Section 24 in the heading, no doubt refers to Section 10, which runs into two sub-sections. The first one is in respect of filing of an appeal against the orders under Section 10 of the Collector. The appeal must be filed within 30 days to the prescribed authority and for sufficient cause to be shown beyond 30 days even within the extended time. Thus, Section 24(1) has no necessity to consider as it is in respect of Sections 4 to 8 read with Section 10 and order of the Collector under Section 10 can be subject matter of appeal referred under Section 24(1). Now coming to Sections 9 read with 24(2), Section 24(2) speaks if any question arises whether any building or land falls within the scope of Section 9, the same shall be referred to the prescribed authority whose decision shall be final.

5. It is necessary herein and in this regard to have a clear idea on the scope of Sections 24 (2) read with 9 of Act. Section 9 runs in three sub-sections. Section 9(1) speaks in relation to vesting of certain buildings and inam lands used for non-agricultural purposes; provided that every private building situated within an inam shall with effect from the date of

vesting, vest in the person who owned it immediately before that vesting date. Section 9(2) speaks where an inam land converted for any purpose other than agricultural, the holder of such land shall be entitled to keep the land provided that such conversion was not void or illegal under any law in force. Section 9(3) speaks vesting of private buildings or lands under Sub-section (1) or (2) shall be subject to the payment of non-agricultural assessment that may be imposed by Government from time to time.

6. From the above, it is the main submission and mainly placing reliance on **A.P.Punjabi Sabhra** supra and by drawing attention of the Court of Section 9 Sub-sections (1) to (3) read with Section 24(2) supra that, reference to the prescribed authority can be not only by Collector or other Revenue Authorities concerned, but also by an individual, who so claims for determination. No doubt, there is some force in the submission from what is referred above from its reading. From the scope above and from the notification in G.O.Ms.No.1613, dated 13.12.1975, it is very clear of the Governor of Andhra Pradesh hereby constitutes under the Act, the Special Tribunals consisting of the District and Sessions Judges in all the Districts of the Telangana Area of the State of Andhra Pradesh for the purpose of the said Act and determines the respective District as the local area of the jurisdiction. The Chief Judge, City Civil Court is no other

than the District Judge of the area designated on civil side so to consider though not specified in the above wording of the Government order supra.

7. Once such is the case, the expression in **State of Andhra Pradesh v B.Venkatamma and others**³ relates only to the Andhra Area Estates Abolition Act, 1948, Section 11 and not in relation to the Telangana Inams Abolition Act supra much less to say civil suit is only the remedy. Thus said conclusion is rejecting the petition is with no substance and not even after consideration of any *para materia* provisions of the two Acts by keeping in juxtaposition.

8. Having regard to the above, the impugned order dated 05.08.2016 in OP (SR) No.10879 of 2016 of the Chief Judge, City Civil Court, Hyderabad is set aside and the learned Judge is required to give fresh hearing to dispose of the un-numbered petition on its own merits either to number or reject or for any further direction, as the case may be.

9. With the above observation, the civil revision petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the revision shall stand closed.

Dr.B.SIVA SANKARA RAO,J

24.10.2016
kvrn

³ 2004(5) ALD 605

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO



C.R.P.No.4731 OF 2016

DATE: 24.10.2016

kvrn