

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

WRIT APPEAL Nos.578 and 632 OF 2016

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

These appeals, under Clause 15 of the Letters Patent, are filed by respondent Nos. 5 to 8 in Writ Petition No. 31179 of 2011 aggrieved by the order passed by the learned Single Judge prohibiting the second respondent in the writ petition from holding a *denovo* enquiry with regards grant of ryotwari patta in respect of Acs. 22.77 cents of land in Survey No. 539 of Yerramareddypalem Village, Renigunta Mandal, Chittoor District, and in declaring as illegal the endorsement dated 10.10.2011 of the first respondent refusing to furnish extracts of the adangal and the 10(1) account to the petitioners under the provisions of the Right to information Act.

Sri Vedula Venkataramana, learned Senior Counsel appearing on behalf of the appellants, would submit that these appeals are confined only to the extent the order of the Learned single judge prohibited the 2nd respondent from proceeding with the enquiry; and the appellants have no objection to the petitioners being granted extracts of the adangal and the 10(1) account. Learned Senior Counsel would submit that, though the notice dated 12.7.2010 does not specifically so state, the order dated 10.10.1992 passed by the Revenue Divisional Officer made it clear that the enquiry directed to be caused was under Section 3(3) of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short 'the Act'), though it was passed in appellate proceedings under Section 7(2) of the Act.

As has been observed by the learned Single Judge, in the order under appeal, the writ petitioners were granted ryotwari patta on 31.8.1984, the said ryotwari patta was confirmed in appeal by the Revenue Divisional Officer on 27.10.1992, and the revision preferred there against was dismissed by the Commissioner, Survey, Settlement and Land Records on 5.8.1994. The learned Single Judge held that as grant of a ryotwari patta in favour of the petitioners had attained finality, and there was no provision in the Act to review the said order, it was not open to the respondents to start a *denovo* enquiry relating to the grant of ryotwari patta to the petitioners in respect of Acs. 22.77 cents of land in Survey No. 539 of Yerramareddypalem Village,

Renigunta Mandal, or to ask the petitioners to produce documents in this regard. The Learned Judge made it clear that, if respondent Nos. 5 to 8 (appellants herein), were claiming any right, title or interest in the land, for which ryotwari patta was granted to the petitioners, it was open to them to avail such remedies as were available to them under law, but they could not collaterally attack the order of the 4th respondent dated 05.08.1994, and undo the same either in the writ petition or elsewhere. The second respondent was prohibited from holding a *denovo* enquiry for grant of a ryotwari patta in respect of Acs. 22.77 cents of land in Survey No. 539 of Yerramareddypalem Village, Renigunta Mandal, Chittoor District.

Sri Vedula Venkataramana, learned Senior Counsel would submit that, since the notice issued by the second respondent is referable to Section 3(3) of the Act, any determination under Section 3(3) would remove the very basis of the grant of a ryotwari patta to the writ petitioners; and a Writ of prohibition cannot be issued, save in exceptional circumstances where the Court or the Tribunal proceeds to act without or in excess of jurisdiction.

The order passed by the Revenue Divisional Officer on 10.10.1992 was in proceedings to which the writ petitioners were not parties to, nor does it appear to relate to this extent of Acs. 22.77 cents of land. The order dated 10.10.1992 was passed in proceeding under Section 7(2) of the Act. It is not even the case of the appellants herein that they had, at any point of time earlier, questioned the grant of ryotwari pattas to the writ petitioners herein. The grant of ryotwari pattas, to the writ petitioners in the year 1984, attained finality in the year 1994 on the revision being preferred thereagainst being dismissed by the Commissioner; and, in the absence of any specific power being conferred under the Act on the second respondent to review such a grant, the *denovo* enquiry now sought to be caused is evidently without jurisdiction.

In **Thirumala Tirupathi Devasthanams vs. Thallappaka Anantha Charyulu**^[1], the Supreme Court held:

*“.....On the basis of the authorities it is clear that the Supreme Court and the High Courts have power to issue writs, including a writ of prohibition. **A writ of prohibition is normally issued only when the inferior Court or Tribunal (a) proceeds to act without or in excess of jurisdiction, (b) proceeds to act in violation of rules of natural justice, (c) proceeds to act under law which is itself ultra vires or unconstitutional, or (d) proceeds to act in***

contravention of fundamental rights. The principles, which govern exercise of such power, must be strictly observed. A writ of prohibition must be issued only in rarest of rare cases. Judicial discipline of the highest order has to be exercised whilst issuing such writs. It must be remembered that the writ jurisdiction is original jurisdiction distinct from appellate jurisdiction. An appeal cannot be allowed to be disguised in the form of a writ. In other words, this power cannot be allowed to be used "as a cloak of an appeal in disguise". Lax use of such a power would impair the dignity and integrity of the subordinate Court and could also lead to chaotic consequences. It would undermine the confidence of the subordinate Court....."
(emphasis supplied)

It is evident therefore that a Writ of Prohibition would be issued where the Court or the Tribunal acts without jurisdiction. As the second respondent has sought to cause an enquiry, and has issued notice to the writ petitioners, he has, in effect, sought to review the grant of a ryotwari patta to them in the year 1984. The Learned Single Judge has, in our opinion rightly, held that the 2nd respondent lacked jurisdiction to review such a grant. We see no reason, therefore, to interfere with the order under appeal. Suffice it to make it clear that, as has been held by the learned Single Judge himself, the order under appeal shall not preclude the second respondent from causing any enquiry with respect to the lands in the subject village, other than the extent of Acs.22.77 cents of land for which the ryotwari patta was granted to the petitioners herein in the year 1984.

Subject to the above observations, the writ appeals fail and are, accordingly, dismissed. The 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)

3rd August 2016

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**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
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Date: 03.08.2016

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