

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.9232 OF 2009 &
WP.No.2579 OF 2014

COMMON ORDER:

Since, the petitioner and subject property in both the writ petitions is one and the same, this Court heard both the writ petitions together and passed common order.

These writ petitions are filed challenging the order dated 25.02.2009 passed by the Commissioner (Appeals), Office of the Chief Commissioner of Land Administration, Hyderabad, whereby the review filed by the petitioner under Section 166-C of A.P.(TA) Land Revenue Act, 1317 Fasli (*for short 'the Act'*) was dismissed holding that the Commissioner (Appeals) has no jurisdiction to entertain the review under Section 166-C of the Act and that the petitioner was directed to file review before the Government.

Learned counsel for the petitioner has not disputed the fact that the Commissioner (Appeals) has no jurisdiction to entertain the review under Section 166-C of the Act, but submits that Section 166 B of the Act cannot be invoked, when special enactment under the A.P.Assigned Lands (POT) Act, 1977, is in existence. In support of this contention he relied on the Judgment in ***Mysagalla Balamma and others***

v. Government of Andhra Pradesh and others¹. He also submits that in respect lands which are subject matter in WP.No.2579 of 2014, no show cause notice was issued to the petitioner, as such, the appellate order passed by the Joint Collector invoking powers under Section 166 B of the Act has to be set aside.

On the other hand, the learned Assistant Government Pleader submits that the Commissioner (Appeals) has no jurisdiction to entertain the review under Section 166 C of the Act, as such the Commissioner (Appeals) has rightly dismissed the review, directing the petitioner to approach the Government. He also submits that the petitioner is not in possession in respect of irregular grant of assignment and that powers can be invoked under Section 166 B of the Act.

Learned counsel appearing for the unofficial respondents submits that since the irregular assignment was made in favour of petitioner, the same was cancelled and allotted to unofficial respondents and that as 'Sendhi trees' are found in the subject land the same is not fit for cultivation.

¹ 2013(5) ALD 208 (DB)

In this case, it is to be seen that the orders passed by the appellate authority reads as follows;

“Perused the impugned order. The Joint Collector, Rangareddy District passed the impugned order under Section 1660B of the A.P.(TA) Land Revenue Act, 1317 Fasli to which a Review under Section 166 C of the Act lies before the Government. Moreover, the present Review petition was filed under Section 166-C only. This Court has no jurisdiction to take up the matter under Section 166-C of the A.P.(TA) Land Revenue Act, 1317 Fasli. Hence, the Review Petition is dismissed as not maintainable. The petitioner is directed to file Review before the Government.”

A reading of the provision 166-C of the Act goes to show that the review against the order passed under Section 166-B of the Act lies to the Government as rightly submitted by the learned Assistant Government Pleader for Revenue, which could not be disputed by the counsel for the petitioner. When once the review is not maintainable before the Commissioner(APPEALS), it cannot be said that the impugned order passed by the Commissioner is erroneous. The petitioner inspite of approaching the Government for filing review against the said order, straightaway filed the writ petition. In view of the same, the writ petitions are liable to dismissed only for the reason stated above.

Accordingly, without going into the other aspects, the writ petitions are dismissed. However, liberty is granted to the petitioner to approach the Government under Section 166-C of the Act. Since the interim order granted on 30.04.2009 is subsisting, the same is continued for a period of two weeks from today.

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

02.01.2017
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A.RAJASHEKER REDDY, J

