

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.447 OF 2017

ORDER:

This writ petition is filed challenging the order dated 06.10.2016 passed by the 1st respondent granting ownership certificate under Section 38 B of the A.P.(T.A) Tenancy and Agricultural Lands Act, 1950 in favour of respondents 4 to 11.

Sri Vedula Venkata Ramana, learned Senior Counsel for the petitioners submits that though petitioners have withdrawn their earlier memorandum of compromise, the 1st respondent without appreciating the same passed impugned order granting certificate under Section 38 B of the Act in favour of respondents 4 to 11-protected tenants. He also submits that when once parties resile from compromise the 1st respondent loses its jurisdiction to pass orders under Section 38 B of the Act.

On the other hand learned Assistant Government Pleader for Revenue submits that petitioners have effective remedy of appeal under Section 90 of the Act and all these questions can be decided by the appellate authority.

Sri D.Prakash Reddy, learned senior counsel for respondents 4 to 11 while reiterating the submission of the learned Assistant Government Pleader regarding alternative remedy submits that after remand order is passed by the Joint Collector, petitioners have once again made application on

23.09.2014 to pass orders basing on compromise and the 1st respondent by relying on the said application passed orders. He also submits that appeal is filed by the third parties against the initial orders passed by the 1st respondent on 07.04.2012 which was disposed of by the 2nd respondent remanding the matter to the 1st respondent for conducting denovo enquiry and in pursuance of the same the 1st respondent passed the impugned order. He also submits that respondents 12 to 38 filed appeal under Section 90 of the Act against the impugned order in the writ petition before the 2nd respondent.

Heard Sri P.Chandrasekhar Reddy, learned counsel appearing for respondent No.23.

The fact that the petitioner has alternative remedy under Section 90 of the Act is not disputed and it is not the case that the 1st respondent lacks its inherent jurisdiction in passing the impugned order. The factual controversy can better be decided by the appellate authority instead of this Court by invoking writ jurisdiction. More so, already appeal is filed by some of the respondents against the impugned order.

In view of above facts and circumstances, without going into the merits of the case, only on the ground of availability of alternative remedy of appeal, I am not inclined to entertain this writ petition.

Accordingly, the writ petition is dismissed granting liberty to the petitioners to avail alternative remedy under Section 90 of the Act. The learned senior counsel Sri Vedula Venkata Ramana sought for grant of status quo order in the meanwhile, as respondents are immediately contemplating to take action in pursuance to impugned order and enabling the petitioners to avail alternative remedy, *Status Quo* obtaining as on today shall be maintained by both the parties for a period of two weeks. However, the appellate authority shall decide the appeal filed by the petitioners in accordance with law without being influenced by the observations made by this Court in this petition and *Status quo* order granted by this Court. No order as to costs.

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

A.RAJASHEKER REDDY, J

03.02.2017

Note: Issue CC by 06.02.2017.

B/o.tk.