

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No.1163 of 2017

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

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 23480 of 2017 dated 17.7.2017.

The appellants herein are the petitioners in the writ petition. They have questioned the action of the Revenue Divisional Officer in entertaining the petition filed by the 5th respondent on 23.12.2014, seeking cancellation of the pattadar passbook and title deed issued in favour of the appellants-writ petitioners, as arbitrary and illegal.

It was contended by Sri B. Vijaya Bhaskar, learned counsel for the appellants-writ petitioners, that no right of appeal is prescribed under Section 5(5) of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short 'the Act') against the order of the Tahsildar issuing pattadar passbooks and title deeds. Learned counsel would rely on a judgment of a Division Bench of this Court, in **Ratnamma vs. Revenue Divisional Officer, Dharmavaram, Anantapur District and others**¹, in this regard.

The learned Single Judge has, in the order under appeal, observed that there was no challenge to the show cause notice issued by the 3rd respondent; and all objections, both on merits and on the procedural aspects, could be raised before the 3rd respondent himself, who is obligated to consider and decide them

¹ 2015 (6) ALD 609 (DB)

before taking up an enquiry on the merits of the matter. Granting liberty to the appellants-writ petitioners, to raise all objections by enclosing a copy of the order passed by him, the learned Single Judge disposed of the writ petition.

Sri B. Vijaya Bhaskar, learned counsel for the appellants-writ petitioners, would contend that, since the impugned notice issued by the Revenue Divisional Officer is without jurisdiction, the appellants-writ petitioners are entitled to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

The question which arises for consideration is not whether the appellants-writ petitioners are entitled to invoke the jurisdiction of this Court, but whether a Division Bench should interfere with the discretion exercised by the learned Single Judge to relegate the appellants-writ petitioners to the remedy of submitting their reply to the show cause notice issued by the Revenue Divisional Officer. All questions, including on the jurisdiction of the Revenue Divisional Officer to entertain the appeal preferred by the unofficial respondent, can also be urged before the Revenue Divisional Officer himself. All objections, including the judgment on which the appellants place reliance upon, can as well be brought to the notice of the Revenue Divisional Officer in reply to the show cause notice issued by him. In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

Suffice it to grant the appellants-writ petitioners two weeks from today to submit their objections to the show cause notice, including on the question of the jurisdiction of the Revenue Divisional Officer to entertain the appeal. On such objections being filed, the Revenue Divisional Officer shall consider the same on its merits and pass orders in accordance with law.

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)

(J. UMA DEVI, J)

22nd August, 2017

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