

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.Nos.24611 and 23137 of 2004

COMMON ORDER:

These two Writ Petitions have been filed by the Mandal Revenue Officer, Tirupathi Rural Mandal, Chittoor District and the Collector, Chittoor District, assailing the orders passed by the Commissioner of Appeals, O/o. Chief Commissioner of Land Administration, A.P., Hyderabad exercising power under Section 7 (d) of the A.P. (Andhra Area) Estates Abolition and Conversion into Ryotwari Act, 1948.

2. The Supreme Court in **Mohtesham Mohd. Ismail Vs. Special Director, Enforcement Directorate and another¹** has held that an adjudicating authority exercises a quasi-judicial power and discharges judicial function and when its order had been set aside by superior authority, ordinarily in the absence of any power to prefer an appeal, it could not do so. It held that for the purpose of exercising the functions of the Central Government under Section 54 of the Foreign Exchange Regulation Act, 1973, the officer concerned must be specifically authorized and only when an officer is so specifically authorized, he can act on behalf of Central Government and not otherwise. It held that only because an officer has been appointed for the purpose of acting in terms of provisions of the Act, the same would not by itself entitle the officer to discharge all or any of the functions of the Central Government. It held that in the absence of

¹ (2007) 8 S.C.C. 254

any power conferred upon him in this behalf by the Central Government, such authority cannot prefer any appeal against the order passed by an appellate authority setting aside its order.

3. In **District Collector, Srikakulam and others Vs. Bagathi Krishna Rao and another**², the Supreme Court considered whether an appeal which had been filed by the District Collector, Mandal Revenue Officer and District Forest Officer as against judgment and decrees obtained by plaintiff therein were maintainable and held that such appeals were not maintainable.

4. In **Joint Collector, Ranga Reddy District, Hyderabad and others Vs. P.V.Narasimha Rao and others**³, a Division Bench of this Court followed the above two decisions and held that without the State pursuing the matter, an adjudicatory authority under the AP (Telangana Area) Inams and Abolition Act, 1955 cannot file Writ Appeals challenging the judgment of a learned Single Judge of this Court in a Writ Petition.

5. In the present case, both the petitioners herein are subordinates in hierarchy to the Commissioner, Appeals, O/o. the Chief Commissioner of Land Administration, Nampalli, Hyderabad. It may be that they are not adjudicatory authorities under the Act. But still they have not been authorized by the State to file these cases.

² (2010) 6 S.C.C. 427

³ 2011 (1) ALD 103 (DB)

6. While it is open to the State to question the said orders by way of separate Writ Petition, if it feels aggrieved by the decision of the Commissioner, Appeals, the petitioners herein, who are subordinates to the Commissioner, Appeals in hierarchy, cannot on the basis of an implied authority of the State Government challenge the orders passed by the Commissioner, Appeals. It is in fact, gross insubordination by the petitioners warranting possibly disciplinary action against the petitioners also.

7. Since there is no material placed on record by the petitioners that they have been authorized by the State Government to challenge the orders of the Commissioner, Appeals, I hold that the Writ Petitions filed by them are not maintainable in view of the judgments cited above.

8. Accordingly, both the Writ Petitions are dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 12-04-2017
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