

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.1169 of 2006

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 of the learned Single Judge in W.P. No. 1493 of 1992 dated 12.4.2006. After extracting the joint survey report wherein it is noted that, out of an extent of 730.22 acres of land which was submerged, an extent of 634.01 acres was Government shikam land out of which an extent of 56.07 acres had been assigned to the landless poor; and an extent of 96.21 acres of land was private patta land, out of which 2.25 acres was wet land and the remaining was dry land, the learned Single Judge observed that contentious issues of facts, relating to the alleged submergence of land and the inadvertent or advertent contribution made by the department etc., could not be adjudicated in proceedings under Article 226 of the Constitution of India and the remedy, if any, available to the petitioners was to claim compensation by way of a Civil Suit.

Sri K. Govind, learned counsel for the appellants, would submit that, since the report itself records that an extent of 96.21 acres was private patta land, the learned single Judge erred in dismissing the writ petition filed seeking compensation to be paid for submergence of the appellants' lands.

While the report no doubt refers to an extent of 96.21 acres of submerged land to be private patta land, the question whether these lands belong to the appellants-writ petitioners etc., are all matters on which evidence is required to be adduced, and a finding

recorded based on such evidence. The learned Single Judge has relegated the appellants-writ petitioners to the remedy of a civil suit. In an intra-Court appeal under Clause 15 of the letters Patent, interference is called for only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

The writ appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

2nd February, 2017

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