THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

WRIT APPEAL NO.1145 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 passed by the learned Single Judge in WP.No.14819 of 2006 dated 20.07.2006.

The appellants herein are the petitioners in the Writ Petition, and claim to be the legal representatives of the protected tenant. They filed an application for succession requesting that they be recognised as the legal representatives of the deceased-protected tenant under Section 40 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 ("the Act" for brevity). On their application being rejected by the Mandal Revenue Officer on 21.09.2000, they preferred an appeal under Section 90(1) of the Act to the Joint Collector who, by order dated 25.03.2006, dismissed their appeal. Aggrieved thereby, the appellants-writ petitioners invoked the jurisdiction of this Court. The learned Single Judge dismissed the Writ Petition holding that the petitioners had the alternative remedy of a further appeal under Section 90(2) of the Act.

Sri L.Prabhakar Reddy, learned counsel for the appellants, would submit, not without justification, that a Second Appeal is not provided under Section 90(2) of the Act; and the learned Single Judge had erred in relegating them to the remedy of an appeal thereunder.

Section 90(1) of the Act confers a right of an appeal against every order, other than an interim order, passed by the Tahsildar or the Deputy Collector to the Collector. The appellants herein had preferred the appeal under Section 90(1) of the Act to the Joint Collector against the order passed by the Tahsildar. Section 90(2) of the Act stipulates that from every original order, other than an interim order, passed by the Collector an appeal shall lie to the Board of Revenue. The right of an appeal under Section 90(2)of the Act is only against the original order passed by the Collector, and not an appellate order. It is evident, therefore, that the petitioners did not have a right of an appeal under Section 90(2) of the Act. The order under appeal, relegating them to such a remedy, suffers from a patent error necessitating our interference.

Learned Government Pleader for Revenue would, however, contend that the petitioners have a remedy of a revision under Section 91 of the Act. The question whether the petitioners have such a remedy, and whether this Court should, instead of entertaining the Writ Petition, relegate them to the remedy under Section 91 of the Act are all matters which the learned Single Judge shall consider. Suffice it to observe that, since the Writ Petition was not dismissed on this ground, we see no reason to examine such a contention in the present appeal more so as even the right of a revision, under Section 91 of the Act, is also to the High Court. The order under appeal is set aside and WP.No.14819 of 2006 is restored to file.

The Writ Appeal is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

6th February 2017
RRB