

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE MS JUSTICE J.UMA DEVI

Writ Appeal No.1054 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.569 of 2008 dated 09.06.2017. The appellants herein are the petitioners in the writ petition. It is their case that the subject lands are their ancestral lands; pattadar pass books and title deeds were issued in the name their father who died on 26.09.2006, leaving the entire property to them; an order of *status quo* was passed by this Court on 22.01.2008; and the said order of *status quo* was vacated by order dated 20.06.2011.

In the counter-affidavit filed by the official respondents, it is stated that the subject lands belong to the Government as per the re-settlement register, and are classified as "Neerella Vagu Poramboke" and "Gayalu"; the 10-1 Account was tampered, and the lands were falsely included in the said Account with a distinct red ink without any specific orders vide patta No.112 of 10-1 Account; the pattadar pass books and title deeds were obtained on the basis of tampered record by playing fraud on the revenue officials; and the land in question was distributed during IV Phase, as the same was Government land, by following due procedure.

The proposed respondents filed a counter-affidavit stating that, on the basis of their representation, the authorities had prepared a list of beneficiaries in the IV Phase of land distribution; the lands were assigned to them; and they are in possession and enjoyment thereof.

In the order under appeal the Learned Single Judge observed that the *status quo* order was vacated, as a result of which the land must have been distributed to the beneficiaries; in the circumstances, no relief could be granted to the appellant-writ petitioners; and, if they were aggrieved by any action of the Government, they were required to establish their title and seek consequential relief from the Government, as there was an allegation of fraud and tampering of records, and the absence of *prima facie* case of title of the petitioners.

It is not in dispute that the interim order of *status quo*, passed in W.P.No.569 of 2008, was vacated on 20.06.2011; and, for the past more than six years, there has been no interim order of stay. It does also appear from the counter-affidavit filed by the 1st respondent that the subject lands have been distributed to the landless poor. While the Government officials claim that fraud had been played and the records were tampered to show the appellant-writ petitioners as pattadars, though the subject land is Government land, Sri V.Rajagopal Reddy, learned counsel for the appellant-writ petitioners, would contend otherwise, and submit that the subject lands belong to the appellant-writ petitioners, whose grand father was granted settlement pattas.

In proceedings under Article 226 of the Constitution of India, this Court would not take upon itself the task of examining disputed questions of fact. All that the learned Single Judge has observed is that the appellant-writ petitioners should avail their remedy of invoking the jurisdiction of the Competent Civil Court to establish their title. It is only if the order under appeal suffers from a patent illegality, would interference, under Clause 15 of the Letters Patent, be justified. We find no such infirmity in the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. Suffice it to make it clear that in case the appellant-writ petitioners avail the remedy of a Civil Suit, the competent Civil Court shall examine their claim on its merits, uninfluenced by the observations made either in the order under appeal or in the order now passed by us. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

31st July, 2017
JSU

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Date: 31.07.2017

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