

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No.1455 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 interlocutory order passed by the learned Single Judge in W.P.M.P. No. 37623 of 2017 in W.P. No. 30193 of 2017 dated 8.9.2017.

The appellant herein filed W.P. No. 30193 of 2017 seeking a writ of mandamus to declare the action of the Joint Collector in cancelling the pattadar pass book and title deed, issued in favour of the appellant-writ petitioner on 4.8.2017, as illegal, arbitrary and in violation of principles of natural justice.

Aggrieved by the action of the Tahsildar, in including the name of the 5th respondent in the revenue records and in issuing a pattadar pass book and title deed in his favour, the appellant-writ petitioner preferred an appeal to the Revenue Divisional Officer, Anantapur who, by his order dated 23.2.2013, dismissed the appeal preferred by the appellant herein, and upheld the pattadar pass book and title deed granted by the Tahsildar in favour of the father of the 5th respondent ie, Sri M.Chalapathi, in respect of an extent of 0.73 cents of land in Survey No. 103, and other lands of Somaladoddi Village of Anantapur Mandal. Aggrieved thereby, the appellant carried the matter in revision to the Joint Collector. When the revision proceedings were pending before the Joint Collector, the appellant obtained a pattadar pass book. The Joint Collector by his order dated 4.8.2017, while dismissing the revision, also cancelled the pattadar pass book and title deed issued in favour of the appellant.

While the appellant herein has filed the present writ petition questioning the order of the Joint Collector in cancelling the pattadar pass book issued in his favour, he chose not to question the revisional

order passed by the Joint Collector dismissing the revision preferred by the appellant herein questioning inclusion of the name of the 5th respondent's father as the pattadar in the revenue records, and in issuing him a pattadar pass book and title deed. As has been rightly observed by the learned Single Judge, in the order under appeal, there cannot be two pattadar pass books and title deeds in the name of two different persons with respect to one property, and the only corollary to the order of the Joint Collector, rejecting the appellant's challenge to the grant of pattadar pass book in favour of the 5th respondent, was for cancellation of the pattadar pass book and title deed issued in favour of the appellant.

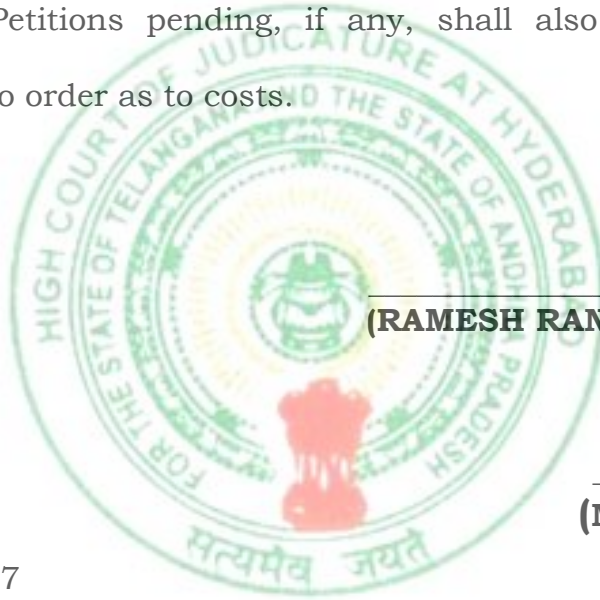
Sri K. Srinivas, learned counsel for the appellant, would place reliance on Section 9 of the Rights in Land and Pattadar Pass Books Act, 1971 (hereinafter referred to as "the Act") to submit that the order of cancellation could not have been passed by the Joint Collector, even if he had exercised his power suo motu, without calling for the records and without giving the appellant an opportunity of being heard. As has been held by the learned Single Judge, in our opinion rightly so, two separate pattadar pass books cannot be issued in favour of two different and distinct persons with respect to the very same property; and the only corollary to the rejection of the revision preferred by the appellant, questioning the validity of the pattadar pass book and title deed being issued in favour of the 5th respondent, was to cancel the pattadar pass book and title deed issued in the appellant's name, that too as the pattadar pass book was issued only during the pendency of revision proceedings before the Joint Collector.

In an *intra-Court* appeal, under Clause 15 of the Letters Patent, interference with the order of the learned Single Judge is justified only if the order suffers from a patent illegality. We find no such infirmity in the order under appeal. The appellant has also not chosen to question the order passed by the Joint Collector on 4.8.2017, rejecting the appellant's

challenge to the grant of pattadar pass book in favour of the 5th respondent.

Sri K. Srinivas, learned counsel for the appellant, requests that the appellant be permitted to file an application, seeking amendment of the prayer in the writ petition, to include a challenge to the dismissal of their revision petition wherein grant of pattadar pass book and title deed in favour of the 5th respondent was under challenge. Suffice it to make it clear that the order now passed by us would not disable the appellant from seeking amendment of the prayer, in the writ petition, in accordance with law.

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)

(M. GANGA RAO, J)

3rd October, 2017

pnb

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Mr. JUSTICE M. GANGA RAO



Writ Appeal No.1455 OF 2017

Date: 3.10.2017

pnb

