

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN**

**AND**

**THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

WRIT APPEAL NO.1835 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 WP.No.15601 of 2011 dated 12.09.2017.

The official respondents in the Writ Petition have preferred this appeal. The respondents herein filed the Writ Petition seeking writ of certiorari to call for the records pertaining to G.O.Ms.No.616 Revenue (Assn.IV) Department dated 02.06.2011 on the file of the first respondent, against the order of the Joint Collector vide proceedings dated 13.07.2009, confirming the order passed by the Revenue Divisional Officer dated 27.06.2008 and also confirming the order passed by the fourth respondent-Tahsildar vide proceedings dated 28.01.2008, as illegal and arbitrary. The parties shall hereinafter, be referred to as they are arrayed in the Writ Petition.

In the order under appeal, the learned Single Judge noted the petitioner's contention that the subject land, of an extent of Acs.6.74 cents in Survey No.1089/2 of Thatiguntapally Village, H/o.Moorevandla Palle, Valmikipuram Mandal, Chittoor District, originally belonged to Sri Mudu Venkat Reddy and China Thimma Reddy; the brothers had divided the said property by way of an un-registered partition deed dated 30.12.1919 followed by a registered partition deed dated 24.05.1929 vide document No.969/1929 in which the present survey number was mentioned as joint land,

and incorporated in 'C' schedule property; thereafter, the subject land was repeatedly sold by several transactions which included registered sale deed No.677 of 1941 dated 15.03.1941, document No.2779 of 1963, dated 28.10.1963; sale deed No.T13/94-923 of 1973 dated 21.05.1973, and sale deed No.T23/940498 of 1973 dated 20.08.1973; the fourth petitioner claimed to have purchased the property vide sale deed document No.452 of 2007 dated 21.05.2007 and sale deed document No.508 of 2008 dated 02.06.2007 from petitioner Nos.1 to 3; and, since then, he claims to be in possession of the property and to have developed the land.

The learned Single Judge also noted the contention, urged on behalf of the Tahsildar, that the subject land was assigned land; and, since the land is classified as DKT land, sale transactions, with respect to the said property, were prohibited. The Learned Single Judge, thereafter observed that the Tahsildar had initiated proceedings on the basis of the entries made in the 'A' Register; the order itself communicated that the said Register was silent as to who the assignees were; the Revenue Divisional Officer had, therefore, erred in holding that there was violation of the conditions of assignment; the Joint Collector had passed the order after calling for a report from the Tahsildar who had stated that the subject land was classified as 'UAW' as per 'A' Register; the report of the Tahsildar stated that the original assignee file was misplaced; and, in the 10(1) account, the land was recorded as patta land; when the assignee file, relating to the disputed land, was missing it was incomprehensible as to how the subject land can be said to be 'UAW' land, more so as the 10(1) account indicated that it was patta land.

The Learned Single Judge concluded, relying on the Division Bench judgment of this Court in **V.Santha Kumari and others v. The District Revenue Officer/Additional District Magistrate**<sup>1</sup>, that the power of the Government to resume the land can be exercised only within a reasonable time; and since several years had elapsed, and as all parties agreed that the assignee files were missing from the office, the orders were liable to be set aside. The learned Single Judge, however, granted liberty to the official respondents to avail their common law remedy to prove their title, and directed that the order of *status quo* shall be maintained for a period of six weeks from the date of the order.

The fact that several sale transactions took place from the year 1929 onwards, till the respondent-writ petitioner purchased the property in the year 2007, is not in dispute. It is also not disputed before us that the assignee files are missing. In such circumstances, the order of the learned Single Judge, directing the appellants herein to avail their common law remedy of filing a suit to establish their title over the subject land, cannot be faulted.

The scope of interference in an intra-Court appeal, under Clause 15 of the Letters Patent, is extremely limited; and, save patent illegality in the order of the learned Single Judge, no interference is called for. We are satisfied that the order under appeal does not suffer from any such infirmity. We see no reason, therefore, to interfere with the order passed by the learned Single Judge. Suffice it to make it clear that the order now passed by us shall not disable the appellant from availing their common law remedy of filing a suit seeking declaration of their title over the

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<sup>1</sup> 2003(2) ALT 361

subject land. As the Learned Single Judge had directed *status quo* to be maintained for six weeks, we consider it appropriate to extent the time, and direct the parties to maintain *status quo* till 15.01.2018.

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

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**(RAMESH RANGANATHAN, ACJ)**

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**(GUDISEVA SHYAM PRASAD, J)**

4<sup>th</sup> December 2017  
RRB

