

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Writ Appeal No.1999 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.37070 of 2017 dated 20.11.2017. The appellant herein is the petitioner in the writ petition. She sought a mandamus to direct the respondents not to take her land, in Survey No.87-1 of an extent of 193.22 square yards or Ac.0.04 cents situated in Tankala Duggivalasa Village, G.Sigadam Mandal, Srikakulam District, without initiating any legal proceedings, as arbitrary and illegal.

In the order under appeal, the Learned Single Judge observed that the appellant-writ petitioner had claimed that, originally, the subject property belonged to her father-in-law, who had transferred the same to his adopted son by name Ramakrishna (the husband of the appellant-writ petitioner) through a registered settlement deed dated 20.08.1998; and her husband had, in turn, gifted the property in her favour. It is her case that the 4th respondent-Gram Panchayat had, without any right over the property, passed a resolution to take possession of the subject land for construction of an Anganwadi building.

Sri Ravi Cheemalapati, Learned Standing Counsel for the Gram Panchayat, placed material before the Learned Single Judge to submit that the subject land was classified as a 'village site'; and the appellant-writ petitioner had no right over the property. Reference was also made to the fact that the appellant-writ petitioner had approached the Mandal Legal Services Committee, by way of L.S.A.No.99 of 2017, seeking to have the matter settled through Lok Adalat. The Learned Single Judge

dismissed the Writ Petition leaving it open to the appellant-writ petitioner to pursue the application before the Mandal Legal Services Committee.

Sri K.Purushotham, learned counsel for the appellant-writ petitioner, would rely on the judgments of this Court, in W.P.No.9552 of 2015 dated 07.04.2015 and in W.P.No.1339 of 2014 and batch dated 06.03.2014, to contend that the subject land is not Government land.

In the aforesaid judgments, the question which arose for consideration was whether Gramakantam lands could be included in the prohibitory order list, under Section 22-A of the A.P. Registration Act, 1908 (for short “the Act”), as a result of which such lands cannot be the subject matter of registration by the Sub-Registrars concerned.

While Government lands are prohibited from alienation and its transfer cannot be registered in view of Section 22-A of the Act, the question, which fell for consideration in the aforesaid judgments, was whether Gramakantam lands could be treated as Government lands falling within the ambit of Section 22-A of the Act. Both the Learned Single Judges have held that Gramakantam lands cannot be equated to Government lands. That does not, however, mean that all Gramakantam lands should be treated as private patta lands over which private parties can claim ownership. The Gram Panchayat claims that the subject land belongs to it, and the appellant-writ petitioner claims to the contrary. These disputed questions of title, over the subject land, can only be adjudicated in a properly constituted civil proceedings before the competent Civil Court. The jurisdiction of this Court, under Article 226 of the Constitution of India, cannot, ordinarily, be invoked to decide such disputed questions.

While we see no reason to entertain this appeal, suffice it to make it clear that neither the order passed by the Learned Single Judge, nor the order now passed by us, shall disable the appellant-writ petitioner from availing her common law remedy of filing a suit seeking declaration of her

title and, if such a suit is filed, the competent Civil Court shall examine her claim on merits uninfluenced either by the order under appeal or the order now passed by us.

Subject to the aforesaid observations, 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)

(GUDISEVA SHYAM PRASAD, J)

29th December, 2017
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