

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

**Writ Appeal No.69 of 2018
And
Writ Petition No.37831 of 2017**

Common Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard the learned Government Pleader for Revenue (Assignment) and Sri V.R. Reddy Kovvuri, learned counsel for the respondent-writ petitioners. This appeal, under Clause 15 of the Letters Patent, is preferred against the order of the learned Single Judge in WPMP No. 46985 of 2017 in W.P. No. 37831 of 2017 dated 14.11.2017. Respondents 1 and 2 herein filed W.P. No. 37831 of 2017 seeking a mandamus to declare the proceedings of the Revenue Divisional Officer dated 19.6.2017, rejecting their application for issuance of a Land Conversion Certificate for an extent of Acs. 6.50 cents in Survey No. 408 of Chinnamachupalli in Chennur Mandal, YSR District, contending that the subject land is classified as Government land (dotted land) as arbitrary, illegal, a colourable exercise of power, and contrary to the provisions of the Andhra Pradesh Agricultural Land (Conversion for Non-agricultural Purposes) Act, 2006. A consequential direction was sought to the Revenue Divisional Officer to issue a Land Conversion Certificate for an extent of Acs.6.50 cents in Survey No. 408 of Chinnamachupalli in Chennur Mandal. By way of interlocutory relief, the respondent-writ petitioners sought a direction to the Revenue Divisional Officer to issue a Land Conversion Certificate for the subject land pending disposal of the Writ Petition.

In the order under appeal, the learned Single Judge observed that, having regard to the order passed in W.P. No. 31364 of 2012 dated 15.10.2012, whereby the appellants were directed not to treat the subject land as assigned or Government land, it was shocking that the

Revenue Divisional Officer had refused the permission sought for by the petitioners for conversion of the land from agriculture to non-agriculture on the ground that the subject land was Government land. While granting interim directions as prayed for, which is to direct the Revenue Divisional Officer to issue a Land Conversion Certificate, the learned Single Judge directed the registry to issue a notice to the Revenue Divisional Officer to show cause why proceedings for contempt of Court should not be initiated against him for willful disobedience of the order passed by this Court in W.P. No. 31364 of 2012 dated 15.10.2012.

Learned Government Pleader for Revenue (Assignment) would submit that, since the subject land is classified in the revenue records as R.S.R. dots, it is Government land, and is prohibited from registration under Section 22-A(1)(d) of the Registration Act; and even otherwise, the learned Single Judge ought not to have issued a mandamus directing the Revenue Divisional Officer to grant a Land Conversion Certificate as this Court, in proceedings under Article 226 of the Constitution of India, would not take over the functions of the Revenue Divisional Officer in deciding whether or not a Land Conversion Certificate should be granted.

On the other hand, Sri V.R. Reddy Kovvuri, learned counsel for the respondents-writ petitioners, would submit that the writ petitioners had earlier sought to sell the subject land; as the Sub-Registrar had refused registration, they had invoked the jurisdiction of this Court in W.P. No. 31364 of 2012; a learned Single Judge of this Court had directed the sub-registrar to register the property holding that the subject land is neither Government land nor assigned land; the said order in W.P.No. 31364 of 2012 dated 15.10.2012 has attained finality, as no appeal was preferred thereagainst; an order inter-parties is

binding, including on the respondents-writ petitioners and the appellants herein; and it is not open to the appellants to now contend that the subject land is Government land, and solely on this ground to deny the respondents-writ petitioners the benefit of grant of conversion of their land for non-agricultural purposes.

W.P. No. 31364 of 2012 was filed by the 1st petitioner and the vendor of the second petitioner herein, questioning the action of the Tahsildar in including the subject land in the list of assigned/ Government lands prohibited from registration, basing on the dots in the Re-survey and Settlement record, and the consequential action of the sub-registrar in refusing to entertain the sale deed for registration. In his order, in W.P. No. 31364 of 2012 dated 15.10.2012, a learned Single Judge of this Court noted the submissions, urged on behalf of the Government, that the subject land was not assigned land, but the same was noted as Government land in the Re-survey and Settlement record; and it was, therefore, included in the list of lands prohibited from registration. Taking note of the sale deed, whereby the respondents-writ petitioners had purchased the subject land and the extracts of the adangals which showed that the said land was recorded as patta land in the revenue records, the learned Single Judge observed that, since there were transactions in respect of the land in question right from the year 1924 onwards, and the petitioners themselves had purchased the subject land by way of a registered sale deed, the respondents could not treat the said land as Government land, merely based on the entries in the RSR in as much as no notices were given to the petitioners when the RSR was prepared; basing on the entries in such a register, the respondents could not treat the subject land as Government land or assigned land and thereby deny transfer of the same in favour of third parties. While allowing the Writ Petition, the

learned Single Judge directed the sub-registrar to receive and process the document that may be presented by the petitioners for registration, in respect of the subject land, without treating the same as assigned/Government land, provided the same was in accordance with the provisions of the Registration Act, 1908 and Indian Stamp Act, 1899.

The order in W.P. No. 31364 of 2012 dated 15.10.2012 has attained finality, as no appeal has been preferred thereagainst. The said order is, therefore, binding inter-parties including on the appellants and the respondents herein. As the subject land has been held by a learned Single Judge, in his order in W.P. No. 31364 of 2012 dated 15.10.2012, not to be Government land, it is not open to the Revenue Divisional Officer to reject the application of the respondents-writ petitioners, for conversion of their land to non-agricultural purposes, solely on the ground that the subject land is Government land. The order, impugned in the Writ Petition, must therefore be, and is accordingly, set aside.

In our view, the learned Single Judge was not justified in issuing interim directions as prayed for, as the interim prayer sought for was to direct the Revenue Divisional Officer to issue a Land Conversion Certificate. While the ground, on which the application for conversion was rejected, was not justified necessitating the order passed by the Revenue Divisional Officer to be set aside, this Court, in proceedings under Article 226 of the Constitution of India, would not, ordinarily, don the robes of the Revenue Divisional Officer in deciding whether or not a Land Conversion Certificate should be granted. The direction which ought to have been issued to the Revenue Divisional Officer is for him to consider the respondents-writ petitioners' application afresh, and in accordance with law, without treating the subject land either as

Government land or assigned land, in view of the earlier order of a Learned Single Judge of this Court in W.P. No. 31364 of 2012 dated 15.10.2012, which order has attained finality.

We consider it appropriate, therefore, to set aside the order impugned in the Writ Petition, and direct the Revenue Divisional Officer, Kadapa to reconsider the respondents-writ petitioners' application, for conversion of their land to non-agricultural purposes, afresh and in accordance with law, without treating the subject land as either Government land or assigned land in view of the order of this Court in W.P. No. 31364 of 2012 dated 15.10.2012 which has attained finality. The entire exercise, culminating in an order being passed by the Revenue Divisional Officer and being communicated to the respondents-writ petitioners, shall be completed with utmost expedition; and, in any event, not later than two months from the date of receipt of a copy of this order.

Both the learned Government Pleader for Revenue (Assignment) and Sri V.R. Reddy Kovvuri, learned counsel for the respondents-writ petitioners, would agree that, in the light of the order now passed by us, the cause in the Writ Petition does not survive necessitating any further adjudication by the learned Single Judge.

Both the Writ Appeal and the Writ Petition are accordingly disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

24th January, 2018

Note: Furnish c.c. in one week.

b/o

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