

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No. 150 of 2018

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. 35210 of 2017 dated 5.12.2017. The relief sought for in the Writ Petition is as under:

.... "To issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of Respondents 2 and 3 in not considering the Petitioners' application dated 15.9.2015 for correction of entries in 1B Register, Cultivation Adangal and other Revenue records and in mutation of their names therein in respect of Ac.4.67 cents situate in Sy. No.121, Garividi Village and Mandal, Vizianagaram District, in pursuance of the joint inspection of the aforesaid land conducted by Respondents 2 to 4 on 9.2.2016 as arbitrary, illegal, unjust and violative of the constitutional rights guaranteed to the Petitioners under the Constitution of India, and for issuance of a consequential direction to the Respondents to forthwith consider the Petitioners aforesaid application and pass such other order or orders as are deemed fit and proper in the circumstances of the case."....

While the relief sought for was to declare the inaction of the appellants 2 and 3 herein, in not considering the respondent-writ petitioners' application dated 15.9.2015 for correction of the entries in the 1B Register, cultivation adangal and other revenue records and to mutate their names with respect to the subject land, as illegal and a consequential direction was sought to the appellants-respondents to forthwith consider the respondent-writ petitioners' representation, the learned Single Judge has, in the order under appeal, examined the validity of the respondent-writ petitioner's claim on its merits, and has directed the appellants herein to correct the entries in the 1B Register, cultivation

adangal and other revenue records, and keep the name of the respondent-writ petitioners in respect of the subject land. The appellants were also directed to pay costs of Rs.2,000/- to the respondent-writ petitioners.

Even if the Writ Petition were to be allowed in its entirety, the only relief which could have been granted was to direct the appellants to consider the representation, submitted by the respondent-writ petitioners, in accordance with law and within a specified time frame. Neither would this Court, in judicial review proceedings under Article 226 of the Constitution of India, adjudicate questions of fact nor would it don the robes of the District Collector and the Mandal Revenue Officer to have the entries, made in the record of rights, altered as the power to make such entries is conferred, under the A.P. Record of Rights in Land and Pattadar Passbooks Act, 1971(hereinafter referred to as the "ROR Act"), on the Tahsildar (MRO). While the learned Single Judge may not have been justified in granting a relief which goes even beyond the main relief sought for in the Writ Petition, the fact remains that the representation submitted by the respondent-writ petitioners is dated 15.9.2015, and the Mandal Revenue Officer has failed to pass orders, on the said representation even though more than two years have since elapsed.

We consider it appropriate, therefore, to set aside the order under appeal and, instead, direct appellants 2 and 3 herein to consider the respondent-writ petitioners' representation dated 15.9.2015, made pursuant to the joint inspection of the subject land conducted by the appellants 2 and 3 and others on 9.2.2016 in accordance with law. While Sri P. Bhaskar, learned Standing Counsel for the Railways, would submit that no inspection was caused on 9.2.2016, it is wholly unnecessary for us to delve on this aspect as these are all matters for appellants 2 and 3 to consider in accordance with law. Suffice it to dispose of the Writ Petition directing appellants 2 and 3 herein to pass orders, on the petitioner's

representation dated 15.09.2015 in accordance with law with utmost expedition, and in any event not later than four weeks from the date of receipt of a copy of this order.

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

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

8th February, 2018

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