

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL NO.1195 of 2016

JUDGMENT: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard the learned counsel for the appellants, who moved the writ petition challenging the appellate decision under the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). The learned single Judge has dismissed that writ petition holding that the writ petitioners have an alternative remedy by way of a Revision in terms of Section 9 of the Act.

2. The learned counsel for the appellants argued that even while going by the findings of the learned single Judge, it is apparent that the writ petitioners were not given adequate opportunity to make oral submissions in accordance with law by the appellate authority. He, therefore, argued that the learned single Judge was not justified to hold that alternative remedy by way of Revision would suffice.

3. Bestowing our anxious consideration to the situation in hand in the context of the decision of the learned single Judge, we are of the view that it is fundamental that opportunity of pre-decisional hearing does not necessary make a decision void. The learned single Judge has attempted to say that the docket would show that there were certain instances of the appellants before the appellate authority being given an opportunity to

place written arguments. The learned single Judge has also indicated that the writ petitioners were given opportunity to file written arguments and no objections were raised by them. We are of the view that the learned single Judge having decided to exclude jurisdictional review under Article 226 of the Constitution of India on the ground that there is an alternative remedy under Section 9 of the Act, that statutory remedy should have been kept intact in a wholesome manner, thereby leaving all issues for consideration to the revisional authority to the extent it was permissible under the Act. We are of the view that the observations made by the learned single Judge touching the modality and sequence of hearing including by placing written arguments before the appellate authority may tend to make the revisional authority think that adequate opportunity was actually given for the appellants to present their case before the appellate authority. Having regard to the scope of the revisional jurisdiction under Section 9 of the Act, which includes power to visit the appellate authority's order on grounds of regularity, correctness, legality and propriety, we think that it is appropriate that we vacate the findings of the learned single Judge to the following effect:

“... it appears that matter is reserved and petitioners were given opportunity to file written arguments and no objections were raised on 19.03.2016.”

It is so ordered.

4. With the aforesaid, the revisional authority, who may be moved by the writ petitioners/appellants before us, would be

within jurisdiction to consider all aspects of such revision in accordance with Section 9 of the Act.

5. This Writ Appeal is accordingly ordered in supercession of the order of the learned single Judge.

The miscellaneous petitions pending in this Writ Appeal, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

RAMESH RANGANATHAN, J

11.07.2018
pln/vs

