

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

WRIT APPEAL No.574 of 2018

ORDER: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This Writ Appeal, under Clause 15 of Letters Patent, is preferred by the Neelayamma Choultry against the order passed by the learned Single Judge in WVMP.Nos.3075 of 2017 and 4665 of 2017 in WPMP.No.19148 of 2017 in W.P.No.15521 of 2017 dated 28.12.2017.

Neelayamma Choultry invoked the jurisdiction of this Court seeking a mandamus to declare the proceedings dated 10.08.2016 of the Joint Collector-cum-Settlement Officer, Visakhapatnam, in issuing ryothwari pattas for the land admeasuring Ac.423.77 cents of B.R.Tallavalasa Village, Padmanabham Mandal, Visakhapatnam District, under the Estates Abolition Act, 1947, though B.R.Tallavalasa Village, Padmanabham Mandal, Visakhapatnam District, was not declared as an Inam Village, and without issuing notice to the petitioner, as illegal, arbitrary, in violation of principles of natural justice, and as contrary to the judgment of the competent Civil Court in O.S.No.61 of 1995 dated 05.10.1953.

By way of interim relief, the appellant – writ petitioner sought a direction from this Court to suspend the proceedings of the Joint Collector-cum-Settlement Officer,

Visakhapatnam, dated 10.08.2016 pending disposal of the Writ Petition.

Interim relief as sought for was granted by this Court by its order dated 26.04.2017. Thereafter, on vacate stay petition being filed both by the Government and by certain individuals who impleaded themselves in the writ petition claiming that they were rightly granted for ryotwari pattas, the order under appeal came to be passed, and the earlier interim order of suspension came to be vacated.

In the order under appeal, learned Single Judge held that the subject lands were zeroiyiti lands which were, admittedly, part of Vizianagaram Zamindari Estate; and, while these lands may not be Inam lands, the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act would nonetheless apply to these lands which fall under the category of Zamindari Estate lands; and the contention of appellant – writ petitioner, relying on the order passed by the Estates Abolition Tribunal and District Judge, Visakhapatnam, in T.A.No.17 of 1967 dated 18.11.1968, that the subject village was not an Inam Estate was of no consequence.

While the effect of the interim order passed on 26.04.2017 is that the order of the Joint Collector-cum-Settlement Officer, Visakhapatnam, granting ryotwari pattas in favour of the unofficial respondent herein, remained suspended denuding them of any right over the subject lands,

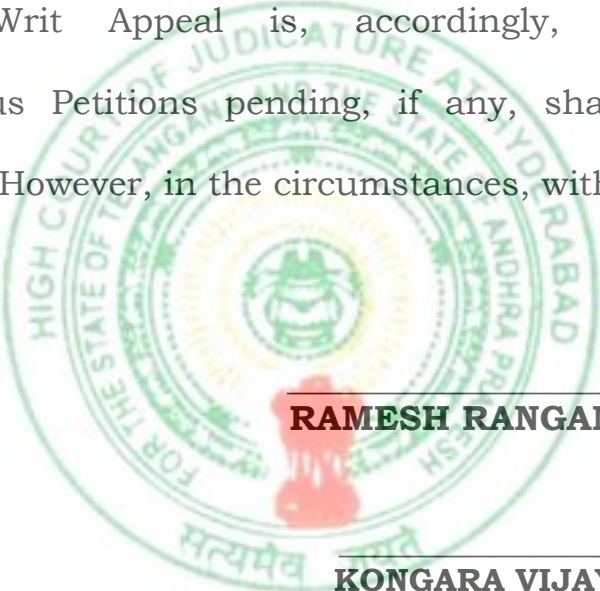
the effect of the order under appeal is to uphold the order of the Joint Collector-cum-Settlement Officer, Visakhapatnam granting ryotwari pattas to the unofficial respondent, which would mean that they would be free to deal with the subject land in any manner they may choose.

As the substantive Writ Petition is still pending adjudication before the learned Single Judge, it would be wholly inappropriate for us to examine the rival submissions on merits. It is not in dispute that the subject lands are in the possession of unofficial respondent and others; and the claim of the appellant is over an extent of Ac.423.77 cents

While Sri P.Roy Reddy, learned Counsel for the respondent – writ petitioner, would contend that the lands, for which ryotwari pattas were granted to the vendors of respondent No.4, do not form part of Ac.423.77 cents which the appellant – writ petitioner claims own, Smt K.Lalitha, learned Counsel for the appellant, would submit that the learned Single Judge has not recorded any finding in this regard nor has he held that the lands for which the vendors of respondent No.4 were given ryotwari patta do not form part of Ac.423.77 cents which the appellant claims to own. This issue also necessitates examination in the Writ Petition. As these contentions were not considered in the order under appeal, it would be wholly inappropriate for us to record any finding in this regard, more so, when writ petition is pending before the learned Single Judge. Suffice it, pending disposal

of the writ petition, to direct that those persons, in whose favour ryotwari pattas were granted, shall not alienate any part of the Ac.423.77 cents which the appellant – writ petitioner claims to own or create any third party rights over the subject land, pending disposal of the writ petition, and to make it clear that the order, which we have now passed and which shall remain in force during the pendency of the Writ Petition, is confined only to Ac.423.77 cents which the appellant – writ petitioner claims to own.

The Writ Appeal is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. However, in the circumstances, without costs.



RAMESH RANGANATHAN, ACJ

KONGARA VIJAYA LAKSHMI, J

Date: 09.04.2018
usd

