

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN  
AND  
THE HON'BLE MS JUSTICE J.UMA DEVI**

**Writ Appeal No.490 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.35736 of 2016 dated 04.01.2018. The appellants herein are the petitioners in W.P.No.35736 of 2016. They invoked the jurisdiction of this Court aggrieved by the order passed by the 1<sup>st</sup> respondent i.e the Revenue Divisional Officer in C.M.A.No.13 of 2007 dated 20.12.2014.

The 2<sup>nd</sup> appellant is the son of the 1<sup>st</sup> appellant. Before the Learned Single Judge, the 1<sup>st</sup> appellant claimed that her grand father, by name Sri Gandham Raghavulu, was assigned Acs.5.00 of land in Survey No.1228/39-43 in the year 1968; Sri Simakurthi Vishwanadham, brother of the 6<sup>th</sup> respondent, claimed to have purchased these lands, along with others, in 1968 from her grand father; the Tahsildar, Aswaraopeta Mandal had issued notice on 13.04.2007 alleging that there was violation of the provisions of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short "the Act"); orders were passed on 21.07.2007 resuming the land, and directing eviction of respondents 5 to 14; and, aggrieved thereby, respondents 5 to 14 had preferred C.M.A.No.13 of 2007 which was allowed by the 1<sup>st</sup> respondent on 20.12.2014.

Before the Learned Single Judge, the appellants herein contended that they were neither made parties to, nor were they heard, in the appeal; and on the basis of the order passed in the CMA, respondents 5 to 14 were attempting to dispossess them from the subject land. They further contended that the sale deed executed

on 25.07.1968 by the 1<sup>st</sup> appellant's grand father Sri Gandham Raghavulu, in favour of Simakurthi Vishwanadham, was void *ab initio* in view of the Act.

The learned Single Judge, thereafter, noted that the record disclosed that the Tahsildar had issued a notice on 06.02.2007, to respondents 5 to 8 under the provisions of the Act, without furnishing details as to who was the assignee, to whom the land was originally assigned, and whether there was any condition, prohibiting alienation, in the said assignment; as the Tahsildar had issued proceedings dated 21.07.2007, ordering eviction of respondents 5 to 14, they had preferred an appeal in C.M.A.No.13 of 2007; while initially there was stay of execution of the order, the stay order was thereafter vacated; on their invoking the jurisdiction of this Court by filing W.P.No.12563 of 2008, *status quo* was directed to be maintained; and, ultimately, the appeal was allowed by the 1<sup>st</sup> respondent on 20.12.2004 setting aside the order of the Tahsildar dated 21.07.2007.

The Learned Single Judge observed that, though the 1<sup>st</sup> appellant claimed to be the grand daughter of Sri Gandham Raghavulu, who was alleged to have been assigned the subject land, no document was filed to show the relationship between the said assignee and the appellants-writ petitioners; in the absence of any material being filed, it could not be said that they related to Gandham Raghavulu; further, no material was placed to show that the land had been assigned to Gandham Raghavulu at all; unless the assignment was subject to the condition of non-alienation, the provisions of the Act had no application; the 1<sup>st</sup> respondent had placed reliance on the revenue records, such as faisal patti and pahanies, to hold that the subject land is patta land granted to Sri

S.Ramalingam and Viswanadham well before the revision settlement of 1952; pattadar pass books and title deeds were given to them by the revenue officials; this would not have happened if the subject lands were assigned lands; and the appellants had no *locus* to maintain the writ petition, since their relationship with the original assignee was not established by any document, and there was no evidence to show that the subject land was assigned land. The Learned Single Judge dismissed the Writ Petition with costs of Rs.5,000/- to be paid by the appellants-writ petitioners to respondents 6 to 9.

Sri S.R.Sanku, learned counsel for the appellants-writ petitioners, would submit that, since the 1<sup>st</sup> appellant is the grand daughter of the original assignee, no order could have been passed by the Revenue Divisional Officer without putting the appellants-writ petitioners on notice and without giving them an opportunity of being heard.

As noted in the order under appeal, no material was placed before the Learned Single Judge to show that the appellants-writ petitioners were even related to Sri Gandham Raghavulu, the alleged assignee of the subject land. Further, even though a notice was issued to the assignees by the Tahsildar, none of them even appeared before him. The order of eviction passed by the Tahsildar was against respondents 5 to 14 in the writ petition; and as they were aggrieved by the order of the Tahsildar, they preferred an appeal to the Revenue Divisional Officer.

Whether the subject lands are assigned lands at all, and even if it is, whether there is a condition of non-alienation (for it is only if there is such a condition that the provisions of the Act would apply) are disputed questions of fact. In view of these disputed questions,

the Learned Single Judge had non-suited the appellants-writ petitioners on the ground that they lacked *locus standi*. In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality.

As the relationship between the appellants-writ petitioners and the alleged original assignees is not clear and, from the records placed before the Revenue Divisional Officer, it does appear that the sale deeds were executed in the year 1968, it cannot be held that the order of the Learned Single Judge suffers from a patent illegality necessitating interference in an intra-Court appeal under Clause 15 of the Letters Patent.

Except to contend that the order of the Revenue Divisional Officer is in violation of principles of natural justice, no other contention has been urged before us regarding the validity of the findings recorded by the Learned Single Judge in the order under appeal. The very fact that, despite notices being issued by the Tahsildar, the original assignees did not appear before him would show that they were unrepresented before the Tahsildar. Consequently the Revenue Divisional Officer cannot be faulted in deciding the appeal, presented by respondents 5 to 14, in the absence of the alleged assignees.

While we see no reason to interfere with the order under appeal to the extent the Writ Petition was dismissed, considering the fact that the appellants-writ petitioners belong to the backward sections of society, we set aside that part of the order whereby costs of Rs.5,000/- was imposed on the appellants-writ petitioners by the Learned Single Judge.

Subject thereto, 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.

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**(RAMESH RANGANATHAN, ACJ)**

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**(J.UMA DEVI, J)**

04<sup>th</sup> June, 2018  
JSU



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**Date: 04.06.2018**

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