

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

WRIT APPEAL No.1147 of 2016

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

This Writ Appeal is against the order refusing to entertain the challenge levied against the decision of the Joint Collector in revisional jurisdiction under the provisions of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity).

2. The non-official respondents moved the Tahsildar for mutation of certain parcel of land in their names. That was granted by the Tahsildar without hearing the writ petitioner. The writ petitioner, therefore, filed an appeal before the Revenue Divisional Officer, who is the appellate authority. That authority set aside the mutation and remitted the matter for reconsideration, requiring the Tahsildar to hear all necessary parties. That was carried by the non-official respondents before the Joint Collector in revision. The revisional authority set aside the appellate authority's decision and restored that of the Tahsildar. This was challenged before the learned single Judge. That stands repelled.

3. The fact of the matter remains that the lands originally vested in G.Narasaiah, who left behind his daughters Venkatamma, Kousalya @ Padma and two sons. The appellant/writ petitioner is stated to be the grandson of Kousalya. The controversy between the heirs of Narasaiah as to

title is essentially a matter for adjudication before the competent civil Court or in jurisdictions which have the power and authority to decide on issues of title to property, where such issues call for adjudication in that regard. Insofar as the Revenue is concerned, all persons who make a claim to eligibility for mutation are entitled to be heard. Insofar as the immovable property referable to Narsaiah is concerned, it is clear that all persons claiming under Venkatamma, Kousalya or the other sons of Narasaiah, were entitled to be heard by the Tahsildar. This would have been happened had the order of the Revenue Divisional Officer given effect to. That order of remand, in our considered opinion, is essentially one which ought to have been sustained. The revisional authority acted irregularly and improperly in terms of jurisdiction in interfering with the appellate order.

4. Supporting the decision of the revisional authority, learned counsel appearing for non-official respondents pointed out that there was enormous delay in instituting the statutory appeal before the Revenue Divisional Officer and therefore, the Revenue Divisional Officer was not justified in entertaining that appeal without even an application under Section 5 of the Limitation Act seeking condonation of delay in institution of the appeal. This is one that would have appealed to us in normal course. But, as of now, the appellate authority has entertained the appeal. The matter has travelled through the revisional jurisdiction as per the statute. It has come to the writ court.

Now it is before the intra court appellate jurisdiction in terms of the Letters Patent. At this distant point of time, we are not inclined to disturb the decision taken by the appellate authority since we are of the view that ends of justice have been secured by the order of remand made to the Tahsildar. Therefore, we sustain the order of the appellate authority remitting the matter to the Tahsildar and set aside the order of the revisional authority, i.e., the Joint Collector, Warangal District. The decision of the learned single Judge is set aside and the order of remand made by the Revenue Divisional Officer, Warangal to the Tahsildar, Hanamkonda is upheld. It is clarified that further proceedings before the Tahsildar shall be held after giving due opportunity of hearing to all parties, who are entitled to be heard, particularly, whose names are reflected in the revenue records as well as any person who may stake claim to the property for mutation. Such decision shall be taken untrammelled by anything stated, on facts, in this Judgment.

5. The Writ Appeal is accordingly allowed.

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