

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

W.A.NO. 746 OF 2018

JUDGMENT: (Per 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. 44462 of 2017 dated 27.12.2017. The appellants herein filed the said writ petition seeking a writ of mandamus to declare the action of the Sub-Collector, Nuzvid, Krishna district in entertaining ROR Appeal No. 35 of 2017 filed by unofficial respondents, and consequential notice issued against the petitioners in respect of the subject land, as illegal, arbitrary and in violation of the judgment and decree in O.S.No. 19 of 1984 dated 16.7.1986 on the file of the Subordinate Judge, Nuzvid.

The appellants-writ petitioners contended before the learned Single Judge that no appeal lay under Section 5 (5) of the Andhra Pradesh Rights in Lands and Pattadar Pass Books Act, 1971 (for short "the Act") against the cancellation of pattadar pass book and title deeds. They relied upon the judgment of a Division Bench of this Court in *Ratnamma Vs. The Revenue Divisional Officer, Dharmavaram, Ananthapur district and others*¹.

In the order under appeal, the learned Single Judge observed that the unofficial respondents had not only sought cancellation of

¹ 2015 (6) ALD 609 (DB)

pattadar pass book and title deeds, but had also challenged the mutation of the subject land as well as of the land in an extent of Ac.4.66 cents in R.S.No. 1116; and, since the mutation of the petitioners' names was in issue, an appeal under Section 5 (5) of the Act was maintainable.

Before us Sri Syed Khader Mastan, learned counsel for the appellants-writ petitioners would submit that, while the petitioners' names were mutated in the revenue records 15 years ago, the ROR appeal filed before the Sub-Collector, Nuzvid, Krishna district, challenging such a mutation, after an inordinate delay of 15 years cannot be entertained, more so as no application was even filed to condone the delay; even otherwise, the judgment of the Civil Court is binding on the unofficial respondents; and, in the light of the judgment and decree passed by the Subordinate Judge, Nuzvid, the appeal could not be entertained by the Sub-Collector, Nuzvid, Krishna district.

All that the learned Single Judge has held, in the order under appeal, is that mutation of the petitioners' names in the revenue records could be subjected to challenge in an appeal preferred under Section 5 (5) of the Act. The questions whether an appeal, filed 15 years after the entry in the revenue records was made, should be entertained or not, more so as no application was filed to condone the delay; whether the judgment and decree of the Civil Court would disable the Sub-Collector, Nuzvid, Krishna district from allowing the appeal etc can be urged by the appellants-writ petitioners before the

Sub-Collector, Nuzvid, Krishna district in the appeal preferred by the unofficial respondents. It is wholly unnecessary for us, therefore, to examine these contentions on merits in the present case. Leaving it open to the appellants-writ petitioners to raise all such contentions as are available to them in law, in the appeal preferred by the unofficial respondents before the Sub-Collector, Nuzvid, Krishna district, the writ appeal fails, and is accordingly dismissed. Miscellaneous applications, if any pending, shall stand closed. No costs.

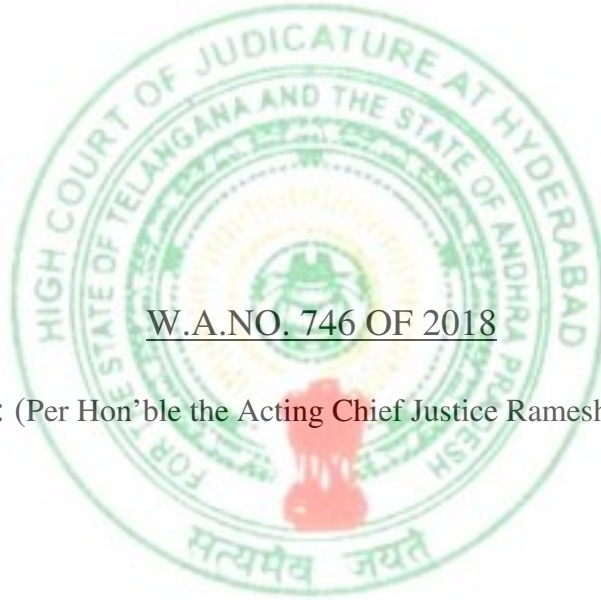
Dt. 5.6.2018
KR/GSN



RAMESH RANGANATHAN, ACJ

J. UMA DEVI, J

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