

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

WRIT APPEAL No.575 of 2018

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

This Writ Appeal, under Clause 15 of Letters Patent Act, is preferred against the order in I.A.No.1 of 2018 in W.P.No.10447 of 2018 dated 29.03.2018.

The appellant herein is respondent No.5 in the writ petition. It is his case that though he had entered a caveat, the interim order under appeal was passed on a lunch motion having been sought by respondent No.1 - writ petitioner without even serving a set of papers in the writ petition on the counsel for the appellant - respondent No.5.

Sri P.Narahari Babu, learned Counsel for appellant - respondent No.5, would draw our attention to the cause-list dated 29.03.2018 which records the writ petition having been taken up by way of a lunch motion, and reflects the appellant's counsel's name as the caveator for respondent No.5.

While Sri I.Koti Reddy, learned Counsel for respondent No.1 - writ petitioner, would claim ignorance of any caveat having been lodged, or intimated to the appellant - respondent No.5, it does appear from the cause-list dated 29.03.2018 that a caveat was lodged on behalf of appellant - respondent No.5 by Sri P.Narahari Babu, learned counsel for the appellant.

It is not in dispute that a copy of the writ petition, and the documents annexed thereto, were not made available to Sri P.Narahari Babu, learned Counsel for appellant -respondent No.5, before the Writ Petition was taken up for admission, and grant of interim relief. On this short ground, the order under

appeal must necessarily be, and is accordingly, set aside. I.A.No.1 of 2018 in W.P.No.10447 of 2018 is restored to file.

Sri I.Koti Reddy, learned Counsel for respondent No.1 – writ petitioner, would submit that the Joint Collector could not have exercised his power of revision, under Section 9 of the Telangana State Rights in Land and Pattadar Passbooks Act, 1971 (the Act), in the light of the earlier interim order passed in W.P.No.2129 of 2015 dated 25.02.2015.

As the order under appeal is set aside on the short ground that the order was passed without a copy of the writ petition, and the documents annexed thereto, being served on the learned Counsel for the appellant – respondent No.5; and, even in his absence during the course of hearing, it would be wholly inappropriate for us to examine whether or not the Joint Collector was justified in exercising his powers under Section 9 of the Act. Suffice it to observe that, in case respondent No.1 – writ petitioner requests the learned Single Judge to take up I.A.No.1 of 2018 in W.P.No.10447 of 2018 for an out of turn hearing, we have no reason to doubt that the learned Single Judge would give such a request its due consideration.

The Writ Appeal is disposed of accordingly. 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

