

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

WRITAPPEAL No.1424 OF 2017 AND WRIT PETITION No.29903 OF 2017

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard learned counsel appearing for the parties.

The subject matter of the W.A. and the W.P. is Survey No.24/1, at Rayapura Agraharam Village, Sabbavaram Mandal, Visakhapatnam District.

The writ petitioners in W.P. No.16785 of 2017 are the appellants. The appellants pray for Mandamus declaring the threatened action of respondents in dispossessing the appellants from subject matter without recourse to law, as illegal, arbitrary and unconstitutional.

The petitioners in W.P. No.29903 of 2017 substantially pray for the same relief but the extent is Ac.0-40 cents and Ac.0-60 cents respectively.

The averments in W.P. No.16785 of 2017 are that the petitioners/appellants are in possession of subject matter of the W.P. and they claim possession or actual enjoyment for over six decades. By referring to the visit of the subordinate officers of 1st and 2nd respondents, the W.P. has been filed.

The respondents filed counter affidavit. Briefly stated, the respondents have contended that the subject matter is tank and the development work like desilting in the tank is undertaken under a Government sponsored programme. The classification of the subject tank in revenue record shows that it is a tank. In the above

factual matrix, the learned Single Judge tested the case of petitioners whether the petitioners could place evidence of their possession and enjoyment and held that the petitioners failed to place documentary evidence on title to the subject matter. The consideration of appeal is whether the said finding recorded by the learned Single Judge warrants interference or not. The appellants/petitioners except relying on a few entries in the revenue records, have not discharged the burden of showing title or actual enjoyment to the property so that the possession and correctness to the entries in the record of rights can be presumed. The classification of subject matter since is tank, we are satisfied that there is no merit and the W.A. fails and is accordingly dismissed. For the reasons recorded above, W.P.No.29903 of 2017 is also dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending stand closed.

THOTTA THIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

Date:14.09.2018

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