

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

WRIT APPEAL No.690 of 2018

JUDGMENT: (Per the Hon'ble Sri Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred by the petitioner in W.P.No.14337 of 2017 aggrieved by the order passed by the learned Single Judge on 22.02.2018 dismissing the Writ Petition.

2. The jurisdiction of the learned Single Judge was invoked by the appellant-writ petitioner questioning the memo issued by the Tahsildar, Maheshwaram Mandal, on 12.01.2017 modifying the earlier directions issued by him earlier on 17.10.2016. Pursuant to the application made on 16.05.2016, the Tahsildar had, vide memo dated 17.10.2016, deleted the name of the fifth respondent from the revenue records with respect to certain extents of land, and the names of the vendor of appellant-writ petitioner and others were included in her place. Thereafter, by memo dated 12.01.2017, the Tahsildar corrected his earlier error, and deleted the name of the vendor of appellant-writ petitioner and others, and included the name of the fifth respondent.

3. Questioning the validity of said memo dated 12.01.2017, among other grounds, for violation of principles of natural justice, the appellant invoked the jurisdiction of this Court

contending that the said memo dated 12.01.2017 was issued without notice to his vendor. While agreeing with the contention of the petitioner, that the memo dated 12.01.2017 was issued without notice to his vendor, the learned Single Judge observed that setting aside the memo dated 12.01.2017 would result in revival of the earlier order dated 17.10.2016, whereby the name of the fifth respondent was deleted from the revenue records without notice to her and, on that ground, declined to interfere. While dismissing the Writ Petition, the learned Single Judge made it clear that the matter reverted to the position as on 16.05.2016 when the appellant-writ petitioner's vendor had submitted an application; and it was for the applicant to pursue the matter from that stage.

4. Sri B.Vijaysen Reddy, learned counsel appearing for Sri S.Malleswara Rao, learned counsel for the appellant-writ petitioner, would submit that, while the appellant is an Agreement of sale-cum-GPA holder with possession, he is not claiming that his name should be included in the revenue records, but only that the name of his vendor should be included. Learned counsel would submit that, ever since 2007 till 2016, the fifth respondent had not raised any objection; and it would be wholly inappropriate for her to contend that the memo dated 17.10.2016 should be set at naught without its validity being subjected to challenge in appropriate legal proceedings; and the learned Single Judge, while directing the Tahsildar to examine the matter afresh, should have held that

the matter reverted to the position as on 17.10.2016 when the order was passed deleting the name of the fifth respondent, instead of on 16.05.2016 when an application was made by the vendor of the appellant-writ petitioner.

5. While this submission of the learned counsel cannot be easily brushed aside, we must bear in mind that the jurisdiction, which this Court exercises under Clause 15 of the Letters Patent, is extremely limited. In an intra-court appeal, the order of the learned Single Judge would be interdicted only if it suffers from a patent illegality. It is not in dispute that the memo dated 17.10.2016, whereby the appellant's vendor's name was included in the revenue records, was without notice to the fifth respondent. The learned Single Judge cannot, therefore, be said to have erred in holding that setting aside the impugned memo dated 12.01.2017 would result in revival of the earlier memo dated 17.10.2016 which itself is illegal, as it was issued without notice to the fifth respondent.

6. We are satisfied, therefore, that the order under appeal does not necessitate interference. As the learned Single Judge has directed the Tahsildar to examine the matter from the position as it stood on 16.05.2016, when the application was submitted by the vendor of appellant-writ petitioner, suffice it to direct the Tahsildar to complete enquiry, and pass orders pursuant thereto within a period of three months from today. The Tahsildar shall put both the vendor of the appellant and the

fifth respondent on notice, and give them a reasonable opportunity of being heard, before passing an order afresh within the time stipulated hereinabove. The appellant may also, if he so chooses, participate in such an enquiry.

The Writ Appeal is, accordingly, dismissed. 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

16.07.2018
vs/va

