

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.22303 OF 2018

ORDER:

Heard Mr.T.Tejeswara Rao for petitioners and the learned Assistant Government Pleader for Revenue.

The issue arises under the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwary) Act, 26 of 1946 (for short 'the Act'). The Court of Estates Abolition Tribunal-cum-District Judge at Srikakulam vide order dated 04.02.2013 in T.A.S.No.1/2004 set aside the order of Settlement Officer-cum-Joint Collector/2nd respondent dated 05.02.2004 in SR 11(A) 56(1) 1/89. The learned Principal District Judge remitted the matter to 2nd respondent for consideration and disposal in accordance with law. The 2nd respondent since did not dispose of file No. SR 11(A) 56(1) 1/89, the petitioners filed W.P. No.21453 of 2016. The writ petition was disposed of as follows:

"Without expressing any opinion on the merits, since it is stated that no orders are passed by respondent No.2 pursuant to the order, dated 04.02.2013, respondent No.2 is directed to dispose of the matter in accordance with law in terms of remand order after issuing notice to the parties to the proceedings."

It is matter of record that complaining disobedience of order in W.P. No.21413 of 2016, the petitioners filed contempt case.

Above are the circumstances preceding to the passing of the order impugned in the writ petition. The 2nd respondent passed the order impugned in the writ petition by holding that sufficient opportunity was afforded to petitioners to produce the documents

as directed by the Estates Abolition Tribunal, but the petitioners did not utilise the opportunity. Therefore, the claim was dismissed. Hence, the writ petition.

The petitioners filed annexure evidencing filing of documents on 13.11.2017. The petitioners complain that the observation made against the petitioners is completely incorrect and unsustainable, for the petitioners have placed the documents before the 2nd respondent but are not considered. The counsel for petitioners fairly stated that though remedy of appeal is available against the order impugned in the writ petition, as there is violation of principles of natural justice and also the direction issued by the Tribunal, the petitioners are constrained to invoke the jurisdiction of this Court under Article 226 of the Constitution of India. The counsel submits that the petitioners are content if documents filed are considered and issue decided. Keeping in view the limited grievance, on 02.07.2018, this Court directed production of record from the office of 2nd respondent. The record is made available for inspection. After perusing the record, without detailing the various dates of hearing etc, it can be concluded by comparing page No.82 of the original file and page 17 of the writ papers that in fact the petitioners have on 13.11.2017 filed the original documents. Hence it is unnecessary to examine how and why the conclusions already noted above from the order impugned in the writ petition has been passed. The order is unsustainable as the order failed to look into the documents placed on record by the petitioners. The counsel consent to ordering the writ petition as follows:

The proceedings SR.No.11(A)/56/(1)1/89 Rc.No.1425/2017/F3 dated 11.01.2018 are set aside. File No. SR.No.11(A)/56/(1)1/89 is restored for hearing and disposal before the 2nd respondent. The 2nd respondent considers disposing of Case No. SR.No.11(A)/56/(1)1/89 as expeditiously as possible preferably within three months from the date of receipt of a copy of this order. The 2nd respondent issues notice by RPAD to respondent Nos.4 to 6 within four weeks from the date of receipt of copy of this order and calls upon them to produce documents on which they wish to rely upon in support of their claim.

The writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.



S.V.BHATT, J

Date:16.07.2018
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