

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No.772 of 2018

Judgment: (Per the 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. 13489 of 2018 dated 18.4.2018. The appellant herein filed the Writ Petition seeking a mandamus to declare the proceedings of the Tahsildar dated -03-2018 as illegal, arbitrary and contrary to the provisions of the A.P. Rights in Land and Pattadar Passbooks Act; and to, consequently, direct the Revenue Divisional Officer and the Tahsildar to consider the petitioner's application dated 26.9.2017 filed on line, and to issue a pattadar passbook and title deed to him.

The endorsement of the Tahsildar issued in March, 2018 was subjected to challenge in the Writ Petition. The appellant herein had earlier filed W.P. No. 1996 of 2018 alleging inaction on the part of the respondents in considering his application for issuance of a pattadar passbook. The said Writ Petition was disposed of by order dated 5.2.2018 directing the Tahsildar to consider the application, and pass appropriate orders in accordance with law. The Tahsildar rejected the petitioner's request for issuance of pattadar passbook on the ground that he was not in possession; there was a dispute between the vendor of the petitioner and another person; and, therefore, the property was included in the dispute register.

With regards the appellant-writ petitioner's contention that no decision was taken by the Tahsildar, and an endorsement was alone issued, the learned Single Judge, after examining the provisions of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (hereinafter

referred to as “the Act”), observed that the order impugned in the Writ Petition was the decision of the Tahsildar, and merely because the Tahsildar had erred in using the term “endorsement” on the top of the order, it would not lose the character of an order; a reading of the proceedings itself would show that it was nothing but a decision made by him on consideration of the application filed by the appellant-writ petitioner, and the earlier directions of this Court in W.P.No.1996 of 2018. The learned Single judge dismissed the Writ Petition on the ground that the appellant-writ petitioner should have availed his legal remedies if he was aggrieved by the decision of the Tahsildar refusing his request, and left it open to him to do so.

While Sri P.R.K. Amarendra Kumar, learned counsel for the appellant-writ petitioner, would put forth his submissions on merits, it must be borne in mind that the learned Single Judge has not dealt with the contentions raised by the appellant-writ petitioner on merits, and has merely relegated them to avail their legal remedies against the decision of the Tahsildar.

While Sri P.R.K. Amarendra Kumar, learned counsel for the appellant-writ petitioner, would submit that the endorsement of the Tahsildar cannot be equated to an order passed under Section 4 of the Act, the learned Single Judge has held otherwise. In any event, on invoking the legal remedies available to them, the appellant-writ petitioner can urge all these contentions also before the competent authority. The learned Single Judge has exercised his discretion to relegate the appellant herein to the alternate remedy available to them in law. As such exercise of discretion cannot be said to suffer from a patent illegality, it does not warrant interference in an *intra-Court* appeal under Clause 15 of the Letters Patent.

The Writ Appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand dismissed. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

6th June, 2018

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