THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

Writ Appeal No.95 of 2018
&
Writ Petition No.34122 of 2016

COMMON JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri Ghanta Rama Rao, Learned Senior Counsel appearing on behalf of the appellants and Sri K.G.Krishna Murthy, Learned Senior Counsel appearing on behalf of the respondent-writ petitioners, and, with their consent, both the Writ Appeal and the Writ Petition are disposed of by this Common Judgment.

The relief sought for by respondents 1 and 2 herein (petitioners in W.P.No.34122 of 2016) is to quash the order passed by the Revenue Divisional Officer, Kalyandurg dated 10.03.2016, as without jurisdiction in view of the order passed by the Division Bench of this Court in **Ratnamma v. Revenue Divisional Officer, Dharmavaram**[1]; and to, consequently, direct the Mandal Revenue Officer to cancel the pattadar passbooks and title deeds issued in favour of the appellants herein, as contrary to the of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (hereinafter called the "Act").

The order dated 10.03.2016 was passed by the Revenue Divisional Officer, Kalyandurg in an appeal preferred by the respondent-writ petitioners against the order of the Tahsildar granting, the appellants, pattadar passbooks and title deeds. This appeal came to be dismissed by the order of the Revenue Divisional Officer dated 10.03.2016 holding that, since there were no valid grounds in the appeal preferred by the respondent-writ petitioners

[1] 2015 (6) ALD 609 (DB)

for cancellation of pattadar passbooks and title deeds issued in favour of the appellants, no interference was called for. Aggrieved thereby, the respondent-writ petitioners filed a revision before the Joint Collector before whom the said revision is said to be still pending. They filed O.S.No.50 of 2013 before the Junior Civil Judge, Kalyandurg and, in I.A.No.144 of 2013 in O.S.No.50 of 2013, an order of interim injunction was granted on 09.07.2013 restraining the appellants from interfering with the respondent-writ petitioners' possession over the subject property. The appellants preferred a Civil Miscellaneous Appeal thereagainst along with an application to condone the delay. The application to condone the delay was dismissed by the District Judge, Ananthapur by order dated 11.08.2015 and, consequently, the C.M.A. itself was rejected. The order of interim injunction remains in force as on date.

On the respondent-writ petitioners invoking the jurisdiction of this Court, questioning the order passed by the Revenue Divisional Officer dated 10.03.2016, the Learned Single Judge granted interim direction as prayed for, which is for a direction to the District Collector, the Joint Collector, the Revenue Divisional Officer and the Mandal Revenue Officer not to act upon the entries made in the revenue records, as well as the pattadar passbooks and title deeds, in relation to Survey Nos.246-A to an extent of Ac.4.99, and Survey No.246-B to an extent of Ac.5.00 in Gurudapuram Village, Kalyandurg Revnue Division, Anantapur District.

The challenge to the validity of the order passed by the Revenue Divisional Officer, as is evident from the relief sought for in the main Writ Petition, is on the ground that it falls foul of the order of this Court in **Ratnamma**[1], wherein the Division Bench opined that, while an appeal lies to the Revenue Divisional Officer under Section 5(5) of the Act against an order made by the Mandal Revenue Officer/Tahsildar, amending the record of rights, no such appeal has been provided against the grant of pattadar passbooks and title deeds under Section 6-A of the said Act.

In effect, the submission urged before the Learned Single Judge, on behalf of the respondent-writ petitioners, is that the appeal preferred by them before the Revenue Divisional Officer was, itself, not maintainable; if that be so, then the revision preferred thereagainst would also not be maintainable; and the respondent-writ petitioner was entitled to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

Even if that be so, what is under challenge in this Writ Petition is merely the order of the Revenue Divisional Officer, Kalyandurg dated 10.03.2016, and a consequential direction is sought to the Mandal Revenue Officer to cancel the pattadar pass books and title deeds issued in favour of the appellants herein. Even if the Writ Petition were to be allowed, the only consequence would be that the order of the Revenue Divisional Officer would no longer survive. As long as the amendment made, to the record of rights, by the Mandal Revenue Officer is not subjected to challenge, and is not set aside, the consequential relief sought for by the respondent-writ petitioners, in the Writ Petition, cannot be granted for it is only after the entries in the record of rights are cancelled can any direction be granted to cancel the pattadar passbooks and title deeds issued on the basis of such entries.

As Sri Ghanta Rama Rao, Learned Senior Counsel appearing on behalf of the appellants, would fairly state that the appellants have no objection to the order of the Revenue Divisional Officer, Kalyandurg being set aside on the ground that the appeal itself was not maintainable, we dispose of both the Writ Appeal and the Writ Petition, setting aside the order passed by the Revenue Divisional Officer dated 10.03.2016. As the consequential relief, sought for in the Writ Petition, cannot be granted unless the entries in the record of rights are challenged in appropriate legal proceedings and are set aside, and in as much as there is no challenge to the entries in the record of rights in the present Writ Petition, suffice it to grant the respondent-writ petitioners liberty to question the entries made by the Mandal Revenue Officer in the record of rights, recording the names of the appellants as the pattadars, in appropriate legal proceedings. We make it clear that, as the injunction order passed by the Junior Civil Judge, Kalyandurg is not under challenge in this Writ Petition, we have not expressed any opinion on the validity or otherwise of the said order.

Both the Writ Appeal and the Writ Petition are, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, ACJ)

(M.S.K. JAISWAL, J)

Date:30th January, 2018.

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