

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Petition No.21592 of 2018

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

The relief sought for in this Writ Petition is for a mandamus to declare the proceedings issued by the District Collector dated 21.6.2018, whereby the appeal preferred by the petitioners was dismissed on the ground of pendency of a Contempt Petition, and the consequential proceedings of the District Collector dated 22.6.2018 addressed to respondents 4,5 and 6 directing them to evict the petitioners' houses, as illegal, arbitrary and violative of the provisions of the A.P. Land Encroachment Act, 1905 and the Rules made thereunder.

While contending that the impugned order of the District Collector suffers from non-application of mind, Sri R. Raghunandan, learned Senior Counsel appearing on behalf of the petitioners, would submit, not without justification, that mere pendency of a Contempt Case does not disable the District Collector from examining the appeal on its merits.

On the other hand, Sri M.Surender Rao, learned Senior Counsel appearing on behalf of the 7th respondent, would submit, in our opinion rightly so, that an appeal/revision would lie to the Board of Revenue against the appellate order passed by the District Collector under Section 10 of the Andhra Pradesh Land Encroachment Act, 1905 (hereinafter referred to as "the Act"); and as the petitioners have an effective alternate statutory remedy where they can raise all such contentions, as are available to them in law, they were not justified in invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

Section 10(1) of the Act provides for an appeal (a) to the Collector (Revenue Divisional Officer) from any decision or order passed by the Tahsildar or the Deputy Tahsildar under the Act, (b) to the District

Collector from any decision or order of a Collector (Revenue Divisional Officer) passed otherwise than on an appeal; and (c) to the Board of Revenue from any decision or order of a District Collector passed otherwise than on an appeal.

Sri M. Surender Rao, learned Senior Counsel appearing on behalf of the 7th respondent, would submit that the impugned order of the District Collector is not an appellate order, since no appeal lies to the District Collector against the appellate order passed by the Revenue Divisional Officer; an appeal would therefore lie against such an order passed by the District Collector to the Board of Revenue; and, in any event, the second limb of Section 10 confers power on the Board of Revenue to revise any decision or order passed by any Officer under the Act, which would include the District Collector.

While there is no bar for this Court to entertain a Writ Petition against the order passed by the District Collector under Section 10 of the Act, this Court would ordinarily refrain from interference if the petitioners have an effective alternative statutory remedy to question the validity of the order impugned in the Writ Petition. As the petitioners have the remedy of an appeal/revision to the Board of Revenue (Chief Commissioner of Land Administration), we see no reason to entertain the Writ Petition.

Leaving it open to the petitioners to avail the appellate/revisional remedy to the Board of Revenue (CCLA), the Writ Petition is dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

5th July, 2018

Note:

Furnish c.c. by 6.7.2018.

b/o pnb

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