

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT**

WRIT APPEAL No.1063 OF 2018

JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard the learned Government Pleader (Revenue) for appellants.

Appellant Nos.1 and 2 filed W.P.No.26494 of 2005 for writ of Certiorari to call for the records in file No.P3/1741/95 dated 11.02.2002 and SR.No.113/11a/82/CTR dated 11.01.1983 from the office of Commissioner of Appeals, O/o the Chief Commissioner of Land Administration and also the Settlement Officer, Nellore and quash the same as illegal and contrary to the A.P. Estates Abolition (Conversion into Ryotwari) Act, 1948 (for short 'the Act').

The learned counsel since have consented to disposing of the appeal and remitting the matter to learned Single Judge for fresh disposal, we are not adverting to the contentions of rival parties on merits vis-à-vis ryotwari patta.

The subject matter of the litigation is an extent of Ac.0-27 Cts in Sy.No.63/7 of Kallur Village. Appellant Nos.1 and 2, as already noted, challenge the orders of statutory authorities under the Act. Respondents 1 to 5 have objected to the Appeal/Writ Petition at the instance of appellant Nos. 1 and 2 and prayed for dismissing the appeal. The said objection viz., that the challenge is not at the instance of proper party i.e., the State was accepted by the learned

Judge and by recording the following findings dismissed the writ petition.

“Further, in J.Ramesh (1 supra), it has been held that the writ petition filed by Mandal Revenue Officer challenging the orders of Commissioner of Appeals by raising various contentions touching the merits of case, is not maintainable in view of the law declared by the Hon’ble Supreme Court in Orxy Fisheries Private Limited vs. Union of India (2010 (6) SCC 427) holding that it is the State, if any rights are claimed by it, who can pursue and contest claim before statutory authorities as well as before High Court, the officials such as Mandal Revenue Officer cannot consider themselves to be aggrieved and challenge the orders passed by statutory authorities. Quasi judicial authorities under the provisions of the Act are not aggrieved parties and they have no locus standi to file writ petitions. In that view of the matter, the writ petitioners have no locus standi to file the present writ petition. Further, this present writ petition is filed without making the Settlement Officer, Director of Settlements and Commissioner of Appeals, who passed the orders challenged in the present writ petition, as party respondents to the writ petition. Therefore, the writ petition is liable to be dismissed for non-joinder of proper and necessary parties”.

Appellant Nos.1 and 2 filed I.A.Nos.3 and 2 of 2018 to implead the State of A.P., represented by Principal Secretary, Revenue Department and the Commissioner of Appeals, O/o of the Chief Commissioner of Land Administration, A.P., the Commissioner and Director of Settlements and the Settlement Officer, Nellore as appellant and respondents in the writ appeal. On 29.08.2018, both the applications were allowed.

The learned Government Pleader contends that through orders in I.A.Nos.3 and 2 of 2018, the defect in the array of parties is cured. The 3rd appellant State, in the case on hand, is now contesting the grant of ryotwari patta and the order under appeal may be set aside, and case remitted to Single Bench for fresh hearing. The reasoning for such prayer is that the appellant being the person aggrieved by the grant of ryotwari patta to subject matter can raise all objections available in law and fact before the Single Bench and the contesting

respondents will also have opportunity to rebut the challenge introduced by the 3rd appellant.

Mr. O.Manohar Reddy submits that the defect even though is cured at appellate stage, still the order under appeal or orders of statutory authorities do not warrant interference.

We have perused the record and in this intra Court appeal, we are of the view that the Division Bench instead of now examining the objections raised or could be raised by the State/3rd appellant, remits the case to learned Single Judge and both parties will have opportunity of hearing.

For the above reasons, we are satisfied that the order under appeal is set aside. Writ appeal is allowed and the case remitted to the learned Single Judge by restoring W.P.No.26494 of 2005 to file. The parties are given liberty to request for an early hearing before the learned Single Judge. No order as to costs.

The Registry is directed to list W.P.No.26494 of 2005 within two weeks from today before the Court having the roster.

As a sequel thereto, miscellaneous petitions, if any pending, stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

10th September, 2018
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