

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.548 of 2018, WRIT PETITION No.3292 of 2017
AND
CONTEMPT APPEAL No.22 of 2018

COMMON JUDGMENT: (Per the Hon'ble Sri Justice Ramesh Ranganathan)

This Appeal is preferred, under Clause 15 of the Letters Patent, against the interlocutory order passed by the learned Single Judge, in W.P.M.P.No.3898 of 2017 in W.P.No.3292 of 2017, on 04.04.2017.

The respondent in the Writ Appeal filed W.P.No.3292 of 2017 seeking a Mandamus to declare the action of the District Collector, Visakhapatnam, in preventing implementation of the orders of the Government in Memos dated 03.05.2013 and 14.08.2015 with respect to re-classification of her land over an extent of Acs.8.52 cents in Original Survey No.28 in R.S.No.17 of Krishnarayapuram Village, Pendurthi Mandal, Visakhapatnam District, from tank to Zeroythi by virtue of the impugned letter of the District Collector dated 20.12.2016 which is contrary to the proceedings of his predecessor dated 02.12.2015, as arbitrary, illegal and without jurisdiction. A consequential direction was sought to the Tahsildar to implement the orders of the Government forthwith. By way of interlocutory relief, the respondent-writ petitioner sought a direction to the Tahsildar to implement the orders of the Government, in Memos dated 03.05.2013 and 14.08.2015, with respect to re-classification of her land over an extent of Acs.8.52

cents. By the interim order under Appeal dated 04.04.2017, the learned Single Judge directed the Tahsildar, Pendurthi Mandal, to implement the Memos dated 03.05.2013 and 14.08.2015, with respect to re-classification of the subject land, if no clarification is received from the Government within eight weeks. On the ground that the interim order of this Court was not complied with, the respondent-writ petitioner filed C.C.No.2536 of 2017 and, in his order dated 29.06.2018, the learned Single Judge, while holding that the respondent therein (Tahsildar, Pendurthi Mandal) was guilty of Contempt of Court under Section 2(b) of the Contempt of Courts Act read with Article 215 of the Constitution of India, sentenced him to undergo simple imprisonment for a period of one month. Taking into account the ordeal faced by the petitioner in that case, the learned Single Judge also imposed a fine of Rs.20,000/- on him, payable to the petitioner therein from his pocket within a period of three weeks; and in default, to undergo further imprisonment for two weeks. The learned Single Judge, however, suspended the said order for a period of four weeks to enable the Tahsildar to prefer an Appeal. Contempt Appeal No.22 of 2018 is preferred against the order passed by the learned Single Judge in C.C.No.2536 of 2017, dated 29.06.2018.

The learned Advocate General for the State of Andhra Pradesh has placed before us a copy of the Memo dated 06.07.2018 whereby the Government, after careful examination

of the entire issue, came to the conclusion that BSO-34(D) was not applicable for reclassification of land in an Inam Estate Village; therefore, the orders issued in Government Memos dated 03.05.2013 and 14.08.2015 were cancelled; as the facts and circumstances of the case were similar to those in the case decided by this Court in W.P.No.6747 of 1996, the decision rendered in the said case dated 27.09.2007 was squarely applicable to this case also; the subject land, of an extent of Acs.8.52 cents in Survey No.28 (old) and 17 (new) of Krishnarayapuram Village, Pendurthi Mandal, Visakhapatnam, was not a Government tank, but was a private tank belonging to the applicant; and, therefore, the applicant was entitled for grant of ryotwari patta under Section 11(a) of the Estates Abolition Act, 1948. The Joint Collector and Settlement Officer, Visakhapatnam was directed to take the claim from the applicant under Section 11(a) of the Estates Abolition Act, pass orders expeditiously, and report compliance to the Government immediately, in order to avoid further legal complications in the matter.

While the learned Advocate General would submit that, in the light of the Memo dated 06.07.2018 cancelling the earlier Memos dated 03.05.2013 and 14.08.2015, the cause in the Writ Petition does not survive; and, therefore, the order under Appeal necessitates being set aside, Sri D.Prakash Reddy, learned Senior Counsel appearing on behalf of the respondent - writ petitioner, would submit that, except to state that there was a

procedural violation in issuing the earlier Memos dated 03.05.2013 and 14.08.2015, even the present Memo dated 06.07.2018 concedes that the subject tank belongs to the respondent – writ petitioner, it is not a Government tank, and the respondent – writ petitioner is entitled for grant of a ryotwari patta; instead of remanding the matter, for examination afresh by the learned Single Judge, this Court may consider disposing of the Writ Petition itself fixing a time frame within which the Joint Collector should examine the respondent – writ petitioner's claim under Section 11(a) of the Estates Abolition Act, 1948, and for necessary orders to be passed pursuant thereto. The learned Advocate General readily agrees for such an order to be passed.

In such circumstances, we consider it appropriate to dispose of the Writ Petition itself permitting the respondent – writ petitioner to make an application, to the Joint Collector cum Settlement Officer, within one week from the date of receipt of a copy of this order. The Joint Collector and Settlement Officer, Visakhapatnam shall, after giving the respondent – writ petitioner an opportunity of being heard, pass orders on the application submitted by her with utmost expedition; and, in any event, within three months from the date of receipt of the respondent – writ petitioner's claim petition.

The order under Appeal is set aside, and both Writ Appeal No.548 of 2018 and Writ Petition No.3292 of 2017 are, accordingly, disposed of. Since the order under Appeal itself has

been set aside, the order in the Contempt Case (which is under challenge in C.A.No.22 of 2018) is also set aside, and Contempt Appeal No.22 of 2018 is disposed of accordingly.

The miscellaneous petitions pending in these matters, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

RAMESH RANGANATHAN, J

19.07.2018
vs/pln

