

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.24698 of 2018

ORDER:

Heard Mr.Nitesh for petitioners, the learned Assistant Government Pleader for Revenue and Mr.Challa Sva Sankar for respondents 5 and 6.

The petitioners challenge the order dated 26.05.2018 of 2nd respondent made under Section 9 of A.P.Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). The operative portion of the order reads as follows:-

"As held by the Hon'ble High Court of Andhra Pradesh in the Second Appeal No.616 and 625 of 1996 decided on 15.2.2000 (2000 (3) ALT 433), Revenue authorities are not precluded from discharging their functions in exercise of the powers conferred upon them by the A.P.Rights in Land and Pattadar Pass Books Act, 1971, mere the Court granted interim injunction in favour of plaintiff in the absence of any stay. Based on the interim stay granted by Hon'ble Junior Civil Judge Court Nandyal, the Revenue Divisional Officer Nandyal presumed that it will be subjudice if any order passed in the matter when an issue is pending in Civil Court. Hence, the order passed by the Revenue Divisional Officer, Nandyal is set aside. The Tahsildar Panyam is directed to take action under the provisions of ROR Act if the Revision Petitioners/ Respondents apply for issuance of pattadar passbook according to their eligibility."

Mr.Nitesh assailing the order impugned in the writ petition made a few submissions on the merits of the matter and also that the appeal filed by respondents 5 and 6 is not maintainable and eventually what is under challenge before 2nd respondent is the order of 3rd respondent refusing to entertain the appeal filed by respondents 5 and 6. Therefore, the entire procedure followed by

the 2nd respondent is illegal and unsustainable. He further contends that the order though remands the issue for consideration by 4th respondent, the petitioners are entitled to fair and equal opportunity for continuing to maintain the entries already made in their favour.

Mr.Challa Siva Shankar objects to the maintainability of writ petition firstly by contending that the order under challenge in the writ petition is made by 2nd respondent under Section 9 of the Act. This Court had occasion to consider the scope, ambit and jurisdiction of revisional authority under Section 9 of the Act in *KURUVA HANUMANTHAMMA Vs. PRINCIPAL SECRETARY, REVENUE DEPARTMENT, HYDERABAD AND ANOTHER*¹, wherein the jurisdiction of 2nd respondent to examine the record of right and pass appropriate orders was considered and decided. Therefore, according to him, though the remedy of appeal was availed before the 3rd respondent now respondents 5 and 6 have availed the remedy under Section 9 of the Act and the omission pointed out by petitioners does not stand to judicial scrutiny. He further contends that the order is one of remand and the 4th respondent is required to afford opportunity to all including the petitioners, and respondents 5 and 6 have no objection if the 4th respondent enquires into the matter on remand and passes orders.

The respective submissions are placed on record and the writ petition is disposed of by this order.

¹ 2017 (6) ALT 449

On remand, the 4th respondent affords fair and equal opportunity to petitioners as well as respondents 5 and 6 and disposes of the case as expeditiously as possible, preferably within four months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending, shall stand closed.

No order as to costs.

S. V. BHATT, J

Dt: 18-07-2018
Prv

