

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No.1089 of 2016

JUDGMENT: *(per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)*

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in WP No.1169 of 2015 dated 26.03.2015.

Respondent Nos.1 to 7 herein filed WP No.1169 of 2015 seeking a *mandamus* to declare the action of the 3rd and 6th appellants in insisting that they produce an NOC from the Revenue Authorities to receive the documents relating to their property, as illegal, arbitrary and violative of principles of natural justice; and, consequently, to direct the District Collector, the Revenue Divisional Officer and the Tahsildar to issue NOC to receive and register the documents, relating to the subject properties, by the District Registrar and the Sub Registrar.

While the relief sought for in the Writ Petition is for a *mandamus* to the District Collector, the Revenue Divisional Officer and the Tahsildar to issue an NOC, the Learned Single Judge has, in the order under appeal, held that no justifiable and legal grounds were shown to subject the petitioners to the requirement of obtaining an NOC from the Revenue Department. The District Registrar and the Sub-Registrar were directed to receive and register the documents, covering the petition lands for registration, without reference to classification of the petition lands as Gayyalu, or insist on an NOC from Revenue Department. The Learned Single Judge further observed that, if the documents presented were

complete, the District Registrar and the Sub-Registrar should register and release the documents in favour of the respondents-writ petitioners.

The 1st respondent herein (1st petitioner in the Writ Petition) had earlier filed WP No.34072 of 2012 to declare the action of the Tahsildar, in changing the classification of lands from Zeroyati to Gayalu, as illegal and arbitrary; and for a direction to the Tahsildar to register the settlement deed submitted by the petitioner. The said Writ Petition was disposed of on 27.08.2014 giving liberty to the 1st respondent herein to approach the Tahsildar with a representation, along with all necessary documents, in support of his claim that the lands in question were private Zeroyati lands; and the Tahsildar was directed, after examining the said documents and making such further inquiry, if necessary, to pass appropriate consequential orders within four weeks from the date of the representation.

In the counter-affidavit filed in W. P. No.1169 of 2015, the District Collector stated that the respondent-writ petitioner had filed an application dated 24.09.2014 seeking change of classification of the subject land; the Tahsildar had passed an order dated 20.10.2014 concluding that the subject land, covered by the schedule, were under the political sufferers quota; and, as per RSR, the subject land was classified as Gayalu (Government land), and was subsequently assigned in 1956 under the political sufferers quota.

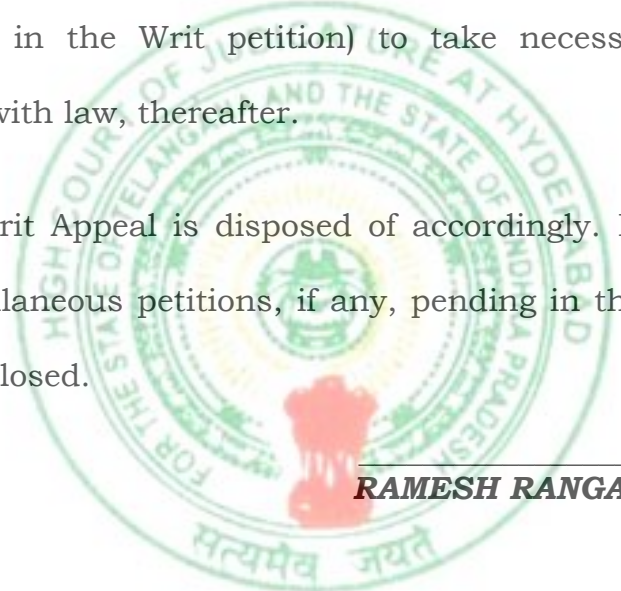
Further G.O.Ms.No.307 dated 06.06.2013, issued by the Government of Andhra Pradesh, stipulated that, with respect to

government lands, assigned to Ex-servicemen and freedom fighters, an NOC should be issued by the District Collector to sell away the lands assigned under the said category. Para 8 of the said G.O. stipulated that the Government had prescribed guidelines for a uniform procedure to be followed in issuing NOCs permitting sale of assigned lands allotted to Ex-servicemen and freedom fighters, or their legal heirs, in continuation of the existing orders connected to the subject land. Clause (viii) thereunder stipulated that NOCs shall not be issued to the third party applicants i.e. who had purchased the land from the original assignees, or their legal heirs, without obtaining an NOC from the District Collector earlier.

It is necessary to note that G.O.Ms.No.307 dated 06.06.2013, which are proceedings issued under Article 162 of the Constitution, has not even subjected to challenge in the Writ Petition. Further, the direction which the respondent-writ petitioner had sought was only for a *mandamus* to direct the District Collector to issue an NOC. The only relief, which could have been granted, was to direct the District Collector to consider the respondent-writ petitioner's request for grant of an NOC. It is evident that the relief granted by the Learned Single Judge goes beyond the relief sought for in the Writ Petition. In the order under Appeal the Learned Single Judge directed registration of the subject lands without reference to the classification or insistence on an NOC as stipulated in G.O.Ms.No.307 dated 06.06.2013, even though the conditions stipulated in the said G.O. were not even subjected to challenge in the Writ petition.

We consider it appropriate, therefore, to set aside the order under appeal. It is open to the respondents-writ petitioners to file an application before the District Collector for grant of an NOC. If any such application is filed, within three (3) weeks from today, the District Collector shall consider the same in accordance with law, pass orders thereupon, and communicate his decision to the respondents-writ petitioners within six (6) weeks from the date of receipt of such a representation. Suffice it to make it clear that, in case no such representation is made within the aforesaid period of three weeks from today, it is open to the appellants herein (officials respondents in the Writ petition) to take necessary action, in accordance with law, thereafter.

The Writ Appeal is disposed of accordingly. No order as to costs. Miscellaneous petitions, if any, pending in this writ appeal, shall stand closed.



RAMESH RANGANATHAN, ACJ

KONGARA VIJAYA LAKSHMI, J

Date: 19.04.2018

Note: Furnish CC in three days.

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URGENT

43

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Date: 19.04.2018

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