

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

WAMP Nos.663 AND 664 of 2017 IN/AND WRIT APPEAL NO.296 OF 2017

COMMON JUDGMENT: (per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

1. The application, in WAMP No.663 of 2017 seeking leave to prefer an appeal against the judgment of the Learned Single Judge rendered in writ jurisdiction, comes with an application in WAMP No.664 of 2017 seeking condonation of delay.
2. Having heard the Learned Government Pleader for Revenue (A.P) for the appellants, and Sri P. Gangaiah Naidu, Learned Senior Counsel appearing for the unofficial respondents, we are satisfied that the appellants have shown sufficient cause for condoning the delay and for granting leave to prefer the present appeal.
3. The State of Andhra Pradesh represented by the District Collector, Chittoor and the Mandal Revenue Officer, Tirupati (Urban) Mandal, are the appellants herein.
4. Three Writ Petitions viz., W.P. Nos.20133 of 2007 and W.P. Nos.7087 and 14230 of 2008 were taken up by the Learned Single Judge and decided in one go. That resulted in adjudicating on rival claims by private parties. Ultimately, the Learned Single Judge relegated the unofficial parties to the Civil Court. W.P. No.14230 of 2008 filed by the Mandal Revenue Officer was on the pointed plea that the land is classified as A.W.D. and is purely Government communal land and the Government is at liberty to make use of that land for public purpose. The pleadings in that Writ Petition filed by the Mandal Revenue Officer are to the effect

that the land was given on DKT patta by the then Tahsildar to Sri Chandamarai Arjuna Pillai, vide DKT No.3/4/71, dated 07.07.1961 and those assigned lands could have been enjoyed only by those assignees or their heirs at law, however, that those lands were unauthorisedly transferred to other persons. This was the sum and substance of W.P. No.14230 of 2008 filed by the Mandal Revenue Officer. The Learned Single Judge held that the Mandal Revenue Officer had no locus standi to institute that Writ Petition. This has led to the application by the State for leave to appeal. Leave having been granted above, this appeal is heard.

5. The Learned Government Pleader for Revenue (A.P) for the appellants, and Sri P. Gangaiah Naidu, Learned Senior Counsel appearing for the private respondents, made submissions, particularly, touching the eligibility or otherwise of the Mandal Revenue Officer to have instituted the Writ Petition.

6. The fundamental disputes between the private parties are now either pending in the trial Courts or in appellate Courts in civil jurisdiction. Those are not matters to be dealt with by us here.

7. The fact of the matter remains that the assertion of the Revenue is that the lands are inalienable by the DKT patta holder or his heirs. This particular issue is a matter *inter-se* the State and the assignee or his heirs. The Learned Single Judge, by and large, is justified in holding that it was not open to the Mandal Revenue Officer to institute the Writ Petition. We do not see that the said Writ Petition was instituted as it is on behalf of the State. However, ends of justice would require that the issue sought to be

raised by the State Government represented by the District Collector in these proceedings are addressed. We are of the view that the questions relatable to W.P. No. 14230 of 2008 could be permitted to be agitated by the State of Andhra Pradesh represented by the District Collector, Chittoor.

8. In the result (i) leave is granted for the appellants to prosecute this appeal; (ii) application seeking condonation of delay is allowed; (iii) the Writ Appeal is allowed and the impugned judgment in so far as it relates to W.P. No.14230 of 2008 dated 13.07.2016 is set aside and the said Writ Petition is remanded back for reconsideration by the Learned Single Judge, after ordering implement of the State of Andhra Pradesh represented by the District Collector, Chittoor.

9. Let the Writ Petition be listed before the Learned Single Judge for consideration on 06.08.2018.

10. The miscellaneous petitions pending, if any, shall stand closed. No costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

RAMESH RANGANATHAN, J

Date: 16.07.2018.

MRKR/CS