

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

WRIT APPEAL No.1419 OF 2018

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

Heard learned senior counsel Sri Ganta Rama Rao for appellants, learned Government Pleaders for Revenue and Social Welfare and Sri P.R.K. Amarendra Kumar for respondents 5 and 6.

The writ petitioners are the appellants. The appellants challenged order S.R. No.205/2015 dated 08.02.2016 passed by the Special Deputy Collector, Tribal Welfare, K.R.Puram, West Godavari District, without notice to appellants is illegal and unconstitutional.

The proceedings dated 08.02.2016 deals with an extent of Ac.1-67cts in Sy. No 55-2A, Ac. 1.00 cts in Sy. No 55-2E, Ac. 1.45 cts in Sy.No.55-1A, Ac.1.45 cts in Sy. No 55-1B, Ac.1.00 cts in Sy. No 55-2B, Ac. 1.00 cts. in Sy. No 55-2B, Ac. 1.00 cts in Sy. No 55-2C, respectively of Mulagalampalli Village of Jeelugumilli Mandal.

The learned Single Judge through the order under appeal considered the legal and factual controversy between the parties in great detail and in final analysis has found that the case presents complex issues of facts, mixed questions of fact and law such as appellants are not tribals and do not belong to any Scheduled Tribe. The transfer in favour of non-official respondents from non-tribals in tribal area is also raised. Therefore, the learned Single Judge set aside the order dated 08.02.2016 in S.R. No.205/2015 and remitted the matter to the Special Deputy Collector, Tribal Welfare

for arriving a decision afresh on merits and in accordance with the procedure established by law, however, after affording opportunity of hearing to all the concerned.

The petitioners object to the remand of case to 3rd respondent for a decision afresh on merits. Learned senior counsel made a few submissions to convince us that there is material to hear and dispose of the case on merits and the remand is completely unnecessary.

We have perused the material now relied on by the appellants, the findings and the reasons which weighed with the Single Judge for remitting the case to 3rd respondent for decision afresh on merits. In exercise of our jurisdiction under Clause 15 of Letter Patent, we are of the view that the remand of case to 3rd respondent is for valid and tenable reasons. We do not propose to examine the contentions even for the limit purpose of sustaining the order of remand while disposing of the appeal. We hold that remand of case to 3rd respondent is justifiable and the discretion is correctly exercised by the learned Single Judge. The writ appeal is accordingly dismissed. All the contentions which are available on remand to appellants as well as respondents are left open for consideration by the Special Deputy Collector, Tribal Welfare. Parties are given liberty to file additional objections/reply or additional documents as may be advised in this behalf. No order as to costs.

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

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

Date:25.10.2018

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