

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.41542 OF 2018

O R D E R

The case of the petitioners is that they are the owners and possessors of the subject property and their names were also entered in the revenue records. Against the said entries, the unofficial respondents filed revision before the Joint Collector, at Mahabubnagar in Case No.D1/01/2013 and file No.D1/115/2013 and Case No.D1/60/2013 and file No.D1/1775/2013, and by order dated 09.03.2018, the revision was allowed. Aggrieved by the same, petitioners filed W.P.Nos.12424 and 12457 of 2018. However, in order to avoid multiplicity of litigation, petitioners filed suit in O.S.No.48 of 2018 on the file of II Additional District Judge at Mahaboobnagar for declaration of title, permanent injunction and partition of the subject property and the same is pending adjudication. This court in the said writ petitions, by considering the fact that petitioners filed suit, dismissed the writ petitions. The grievance of the petitioners is that when the suit is pending, 4<sup>th</sup> respondent – Tahsildar, without issuing any notice and following the procedure, vide proceedings 17.08.2018 ordered for mutation of the names of the unofficial respondents in the revenue records as pattadars, and that when the petitioners filed appeal before the 3<sup>rd</sup> respondent – Revenue Divisional Officer, along with application seeking for interim stay of the order passed by the Tahsildar dated 17.08.2018, the said respondent has not passed any order and pending the appeal, the 4<sup>th</sup> respondent mutated the names of unofficial respondents in the revenue records. Aggrieved by the same, the present writ petition is filed.

Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue.

From the above facts and circumstances and the material on record, it could be seen that in W.P.Nos.12424 and 12457 of 2018, filed by the petitioners against the orders of the Joint Collector dated 09.03.2018, this court while dismissing the writ petitions by order dated 25.07.2018, made the following observations:

“Keeping in view the scope of Section 8 of the Act and the view taken by this court in MUSKU MALLAIAH’s case {(2004(6)ALT 155 (DB)} , this court is convinced that at this stage of the matter, examination of legality or otherwise of the order of 2<sup>nd</sup> respondent impugned in writ petitions ought to be avoided.

Now advertent to the request of Mr.Achuta Reddy that the interim order granted by this court on 30.04.2018 may be directed to be maintained during the pendency of the suit, this court is of the view that the petitioners herein since are plaintiffs in O.S.No.48 of 2018, the petitioners are well advised to work out all the interlocutory prayers relating to the subject matter of the suit before the learned trial Judge. On the other hand, if this court accepts the request of the petitioners, it results in an anomalous situation namely the lis for all purposes is examined by the trial court, but interlocutory orders are passed by this court. This court is not adopting such procedure.

Hence, the writ petitions fail and the same are accordingly dismissed. The dismissal of writ petitions shall not be understood as this court has refused to consider any of the prayers made by the petitioners herein. It is made clear that since the lis is pending before the trial court, it is for the learned trial judge to examine the case on its own merits.”

From the above order, it is clear that this court, while considering the challenge to the proceedings of the Joint Collector dated 09.03.2018, held that since the suit is pending in respect of the subject property, examination or otherwise of the said impugned order, is to be avoided, and further directed the parties to work out their remedies before the civil court. This order has attained finality, as no writ appeal is stated to have been filed. In pursuance of the orders of the Joint Collector dated

09.03.2018, and as there are no orders staying the said proceedings, 4<sup>th</sup> respondent, vide proceedings dated 17.09.2018, mutated the names of the unofficial respondents. When this court, specifically holding that examination of legality or otherwise of the order dated 09.03.2018 is to be avoided and dismissed the writ petitions filed by the petitioners and directed the parties to work out their remedies before the civil court, question of filing appeal, against the orders of the 4<sup>th</sup> respondent – Tahsildar, mutating the names of the unofficial respondents, which action was in consequence to the orders passed by the Joint Collector, dated 09.03.2018; does not arise, and similarly, present writ petition, filed challenging the action taken in pursuance of the orders of the Joint Collector dated 09.03.2018, also cannot be entertained.

In view of the facts and circumstances of the case and the order of this court in 25.07.2018 in W.P.Nos.12424 and 12457 of 2018, writ petition is disposed of, leaving it open to the petitioners to work out their remedy before the civil court in the suit pending adjudication between the parties.

Interlocutory applications pending, if any, shall stand closed. No costs.

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A.RAJASHEKER REDDY,J

DATE:03—12—2018

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