

THE HON'BLE SMT. JUSTICE P.MADHAVI DEVI

W.P.No.18910 of 2019

ORDER:

This writ petition has been filed by the petitioner seeking a writ of mandamus declaring the action of the 2nd respondent in entertaining the appeal vide C.M.A.No.34/2018 filed by the 6th and 7th respondents against the order passed by the 3rd respondent in LTR Case No.36/2017/MGR, dated 03.08.2017 treating the Samithisingaram Village, Manuguru Mandal of Bhadradri-Kothagudem District, as a Tribal Village with the Schedule Area as without jurisdiction, unconstitutional and in violation of Article 244(1) of the Constitution of India.

2. Heard the learned counsel for the petitioner and learned Government Pleader for Social Welfare for the respondents No.1 to 4 and Mr.K.L.N.Raghavendra Reddy, learned counsel representing the respondent No.5 and Mr.Ch.Ravi Kumar, learned counsel for the respondents No.6 and 7.

3. Brief facts leading to the filing of the present writ petition are that the respondents No.6 and 7 have filed LTR Case No.36/2017/MGR before the 3rd respondent and the same was

dropped on the ground that there is no cause of action or jurisdiction to adjudicate anything under the Regulation 1/1970 because there is no change in pattadar column and as not made any transfer of ownership of the scheduled land. Against the said order, the respondents No.6 and 7 have filed a CMA vide CMA No.34 of 2018 before the 2nd respondent. On the ground that CMA is not entertainable since the Samithisingaram Village is not an agency area and therefore, the LTR case is not maintainable and consequently the CMA is not maintainable, the present Writ Petition is filed.

4. Initially there was an interim direction to the 2nd respondent not to entertain the appeal pending disposal of the Writ Petition by orders dated 19.09.2019. The unofficial respondents have filed counter and stay vacate petition vide I.A.No.1 of 2020.

5. The learned counsel for the petitioner submits that the petitioner has already filed a Civil Suit before the Civil Court and obtained interim injunction against the writ petitioner and the suit is also decreed in favour of the petitioner. It is submitted that since the area-Samithisingaram Village does

not belongs to agency area and the petitioner has already approached the Civil Court, the respondents No.6 and 7 have also availed the remedy before the Civil Court by contesting the Suit, both the LTR case as well as the CMA are not entertainable before the respondents No.2 and 3.

6. Learned counsel for the respondents No.6 and 7 however, submits that by notification No.90, dated 07.12.1950, Samithisingaram Village in Mandal has been notified as a scheduled area and therefore the LTR case is maintainable and since, it has been dismissed by holding that it did not have jurisdiction, the respondents No.6 and 7 have filed a CMA before the authority and prayed that the authority may be directed to consider the case of the appellants therein.

7. The Government has filed counter and stated that the Samithisingaram Village is notified as scheduled village in Palvancha Taluk.

8. Having regard to the rival contentions and the material on record, it is observed that the LTR case has also been contested by the writ petitioner and after considering the contentions of both the parties, the case has been dropped. The respondents

No.6 and 7 are therefore having the legal remedy of filing an appeal before the appellate authority and have accordingly availed the same and the writ petitioner is also a party to the said CMA and therefore, he has an opportunity of raising all the objections including the preliminary objection of the jurisdiction before the appellate authority.

9. In view thereof, this Court does not find any merit in this Writ Petition. Accordingly, the Writ Petition is dismissed, the 2nd respondent is directed to consider the objections raised by the petitioner both on the jurisdiction as well as on the merits and dispose of the appeal within a period of Six (06) months from the date of receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall also stand closed.

JUSTICE P.MADHAVI DEVI

Date: 12.10.2022

Prn/bak

THE HON'BLE SMT. JUSTICE P. MADHAVI DEVI

WRIT PETITION No. 18910 of 2019

Date: 12.10.2022

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