

HIGH COURT OF ANDHRA PRADESH: AMARAVATI

**CHIEF JUSTICE J.K. MAHESHWARI
AND
JUSTICE LALITHA KANNEGANTI**

WRIT APPEAL No.211 of 2020

(taken up through video conferencing)

Between:

G.Sivaiah,
S/o Perumalla, age 48 years,
R/o Kothuru Mydavolu Village,
Edlapadu Mandal, Guntur District

..Appellant

and

The Tahsildar,
Mandal Revenue Office,
Edlapadu, Guntur District and others

..Respondents

Counsel for the appellant : Sri T.Ramakoteswara Rao

Counsel for the respondents : Government Pleader for Revenue

ORAL JUDGMENT

13.10.2020

Per J.K. Maheshwari, CJ

Being aggrieved by the order, dated 19.02.2020, passed in W.P.No.3939 of 2020, whereby the learned Single Judge dismissed the writ petition, this writ appeal has been preferred by the writ petitioner.

2. Learned Single Judge, while passing the order under appeal, has observed that some of the respondents produced documentary evidence i.e., RSR and adangal copies and therefore, it is said that presumption in favour of the appellant on the basis of DKT pattas and pattadar passbooks has been rebutted by the respondents. Hence, the relief, as prayed in the writ petition, was declined by dismissing the writ petition.

3. After hearing the learned counsel on either side and perusing the material available on record, it is to be noted that as admitted by the learned Government Pleader for Revenue appearing on behalf of the

respondents, counter-affidavit was not filed before the learned Single Judge. Learned Government Pleader for Revenue states that the documents, which were referred to and relied upon by the respondents before the learned Single Judge to refute the presumption in favour of the appellant by virtue of DKT pattas and pattadar passbooks, are not available with him now. The relevant documents and record must have been filed on an affidavit of the revenue officer before the learned Single Judge. In that view of the matter, we are not inclined to affirm the findings so recorded by the learned Single Judge and therefore, the order so passed by him is, hereby, set aside.

4. Accordingly, this Writ Appeal is allowed. The Writ Petition is restored to its file. The respondents are directed to file the relevant documents and record on an affidavit of the revenue officer indicating the fact as to how presumption of Section 6 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 is not in favour of the appellant, but in favour of the State Government. It is made clear here that this Court has not expressed any opinion on merits of the case because the relevant material has not been brought before us and the parties have agreed to file the same before the learned Single Judge.

There shall be no order as to costs. As a sequel, all the pending miscellaneous applications shall stand closed.

J.K. MAHESHWARI, CJ

LALITHA KANNEGANTI, J

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