
(1999) 03 AP CK 0065

In the Andhra Pradesh High Court

Case No : Writ Appeal No. 435 of 1999

Director of Settlements and Others

APPELLANT

Vs

Neerupaka Rama Krishna

RESPONDENT

Date of Decision : 24-03-1999

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 11

Citation : (1999) 2 ALT 676

Hon'ble Judges : M.S. Liberhan, C.J;A.S. Bhate, J

Bench : Division Bench

Advocate : Govt. Pleader for Revenue, for the Appellant; A. Ranga Charyulu, for the Respondent

Final Decision : Dismissed

Judgement

M.S. Liberhan, C.J.—The learned single Judge quashed the suo motu show-cause notice issued by the first respondent dated 28-2-1998 for cancellation of the patta order issued on 27-5-1962. The learned single Judge quashed the show-cause notice, inter alia, on the ground that in W.P. No. 10773 of 1996, the validity of issuing of patta order dated 27-5-1962 was upheld and that the said order operates as resjudicata.

2. The learned Counsel for the appellant vehemently contends that the finding of the learned single Judge that the earlier judgment operates as res judicata cannot be sustained, inter alia, contending that in the said writ petition, a mandamus was issued directing the respondents therein to issue pattedar pass book to the petitioner, which has no bearing with respect to the patta order dated 27-5-1962.

3. We find no force in the submission of the learned Counsel for the appellant for the simple reason that in order to give an effective relief directing the respondents in the W.P. No. 10773/96 to issue the pattedar passbook, it was quite essential to give a finding that the petitioner therein did have a right to the

pass book in view of the order dated 27-5-1962. If the State had raised an objection that the order dated 27-5-1962 is not a valid one, the relief could not have been granted directing issuance of the pass book. Thus, we find no force in the submission of the learned Counsel for the appellant that in the said proceedings, the observation made with respect to the validity of the order dated 27-5-1962 would not operate as res judicata. We find force in the observation made by the learned single Judge that in the judgment in W.P. No. 10773 of 1996, the very same objection which formed the basis of the show-cause notice was elaborately considered and was negatived. The appellant cannot be permitted to sit over the finding of this Court under the garb of issuing a fresh show-cause notice, specially after a lapse of 36 years.

4. In view of the above, we find no ground to interfere in the appeal. The appeal is accordingly dismissed. No order as to costs.