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(1998) 03 AP CK 0044

In the Andhra Pradesh High Court

Case No : W.A. No. 203 of 1998

Jagan Mohan Reddy APPELLANT

Vs

S. Padmavathi and others RESPONDENT

Date of Decision : 10-03-1998

Acts Referred:

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 5
Civil Procedure Code, 1908 (CPC) — Section 151

Citation : (1998) 3 ALD 10 : (1998) 2 APLJ 215

Hon'ble Judges : Umesh Chandra Banerjee, C.J;J. Chelameswar, J

Bench : Division Bench

Advocate : Mr. G. Shivakumar Goud, for the Appellant; Mr. K.I. Manohar and Government Pleader for Revenue, for the Respondent

Judgement

Umesh Chandra Banerjee, C.J.—This appeal is directed against the order of the learned single Judge wherein the learned single Judge pleased to observe as follows:

"On the facts and circumstances of the case, the Joint-Collector cannot exercise the power of revision under Section-9 while the appeal is pending before the Revenue Divisional Officer. Therefore, the revision is not maintainable while the appeal is pending. Hence, the impugned order of the Joint Collector dated 31-3-1997 is set aside as not maintainable.''"

There is obviously some factual misapprehension in the matter in issue. The records depict that there was an appeal in terms of the A.P. Rights in Land and Pattadar Pass Book Act, 1971. During the pendency of the appeal, in order to expedite hearing and disposal of the same, however, an application u/s 151 C.P.C. was filed before the Joint Collector. The Joint Collector, however, without having any consideration for the matter in issue, again under total misapprehension of facts, disposed of the matter on merits treating it to be a revision though, however, the exercise of jurisdiction can only be had in terms of provisions of Section 9 of the Act. Be it noted that Section 9 of the Act of 1971 authorises the Joint Collector to hear a review-petition as against the order of the Revenue Divisional Officer as also the Mandal Revenue Officer. Be that as it may, the Joint Collector, for reasons best known to him, treated the same as a revision petition, and disposed of the same on merits. The contextual facts further depict, however, that the appeal on the date of disposal of the revision-petition in terms of Section 9 of the Act, stood disposed of There was no revisional-application, as such the revisional authority has had no occasion to deal with the matter as it has been dealt with. This aspect of the matter has not been clearly enunciated by the parties by reason of which there is likelihood of factual misapprehension so far as the learned single Judge is concerned. The concerned officer viz., the Revenue Divisional Officer as also the revisional authority viz., the Joint Collector were also under factual misapprehension and dealt with the matter in a manner de hors the statute.

2. In that view of the matter we dispose of the appeal at this stage in the manner as follows:

3. The order of the learned single Judge, the order of the Revenue Divisional Officer as also the order of the revisional authority viz., the Joint Collector stand set aside. The Revenue Divisional Officer is directed to hear the matter afresh upon affording an opportunity of hearing to both parties, Either of the parties, however, would be at liberty to take steps in terms of the provisions of Section 9 of the Act. While dealing with the matter; the Revenue Divisional Officer is directed to record reasons in support of his findings. Since the matter is pending for quite some time, let the matter be dealt with by the appropriate officer in accordance with law with utmost expedition and preferably within a period of four weeks from the date of communication of this order. The appeal disposed of accordingly. No order as to costs.

