

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

Writ Appeal No.65 of 2015

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DATED:04.02.2015

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Between:
Trimurthy Pillai,
Hyderabad and others.

... Appellants

And

The Greater Hyderabad Municipal Corporation,
Represented by its Commissioner,
Hyderabad and others.

....Respondents

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

-
Writ Appeal No.65 of 2015

Judgment:(per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta))

By consent of the parties, this appeal is taken up for hearing and disposed of finally today as we notice that the issue is simple.

The appellants/writ petitioners approached the first Court with a prayer for cancellation of the permission granted on various grounds. However, His Lordship did not entertain the dispute on merits, rather His Lordship in exercise of his discretion, asked the writ petitioners to approach the competent Civil Court for adjudication of their title in respect of the subject property and seek appropriate orders.

We are in agreement with His Lordships' observation and decision in substance. However, the operative portion of the order may create some confusion as to whether the litigants should approach the Civil Court by filing Civil Suit or take some other proceeding. Admittedly, the execution proceeding under Order 21 Rule 97 C.P.C. is pending and the appellants/writ petitioners have already approached the Executing Court. We, therefore, think that by virtue of Order 21 Rule 101 of C.P.C., which is quoted herein, the appellants/writ petitioners can take up all the issues before that Court as we think that Court alone has jurisdiction to decide all the questions raised herein.

"Question to be determined: All questions (including questions relating to right, title or interest in the property) arising between the parties to a proceeding on an application under Rule 97 or Rule 99

or their representatives, and relevant to the adjudication of the application, shall be determined by the Court dealing with the application and not by a separate suit and for this purpose, the Court shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such questions.”

Accordingly, we dispose of the appeal with the clarification, as above.

Pending miscellaneous petitions shall also stand closed.

No order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

4th February, 2015

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