

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

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

WRIT APPEAL No. 27 of 2015

Date: 22.01.2015

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Between:

Kum. K. Poornima Komati
& others.

... Appellants

And

The State of Telangana, rep., by its Principal Secretary,
Municipal Administration Department,
Hyderabad & others.

... Respondents

This Court made the following:

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

WRIT APPEAL No. 27 of 2015

JUDGMENT: (Per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

This appeal has been preferred against the order dated 20.01.2015 refusing to pass interim order as sought for by the writ petitioners-appellants.

Instead of detailing the facts in the judgment and order, we just record the relevant facts. The writ petitioners-appellants came to this Court earlier with a writ petition challenging the eviction order, and the learned Single Judge while dealing with the matter did not interfere with the same. However, liberty was given to prefer statutory appeal within time as mentioned in the order. While passing order interim protection was given in the shape of maintaining *status quo*, with regard to possession pending disposal of the statutory appeal. Noticing expiry of the period of interim order and the fact of not preferring any appeal subsequent notice was issued asking the writ petitioners-appellants to show cause as to why action for eviction should not be taken. This notice was challenged before the learned Single Judge by the above writ petition. His Lordship was pleased to admit the writ petition for hearing on affidavit, however, refused to grant interim relief considering the *prima facie* case and the balance of convenience and inconvenience.

We think that the issue is very small in this matter for which the writ petition itself should not be kept pending. According to us, as rightly

pointed out by the learned counsel for the appellants, without considering the explanation offered by the appellants pursuant to the impugned show cause notice, eviction order cannot be passed. However, he contends ignoring this right of natural justice the respondent authorities are proceeding and/or threatening his clients to evict without deciding the issue.

Learned counsel for the Corporation, on the other hand, contends that the writ petitioners are trespassers and no appeal has been preferred under the law in spite of direction and opportunity given by this Court. Even in the explanation factum of preferring appeal is not mentioned at all. Under these circumstances, the only option left for the Corporation is to evict them. So, notice has been issued although it is not required under the law at all.

According to us, when the Corporation decided to give an opportunity of hearing the same cannot be taken away by its subsequent act and conduct. Therefore, without considering the explanation offered by the writ petitioners pursuant to the notice, no attempt to eviction can be undertaken. Under these circumstances, we direct the Greater Hyderabad Municipal Corporation to consider the explanation offered by the appellant pursuant to impugned notice and also give a personal hearing to the writ petitioners, and thereafter take steps in accordance with law as may be permitted.

In view of the aforesaid discussion and decision we do not think that the appeal is required to be kept pending. Hence, we dispose of the same in the above terms. We also notice that nothing remains in the writ petition to be decided. It would be open for the parties to make a mention before the learned Single Judge for final disposal of the writ petition.

Pending miscellaneous petitions, if any, shall also stand disposed of. No order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

Date: 22.01.2015
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