

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

Writ Appeal No. 404 of 2015

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DATED:03.06.2015

Between:

Eswara Communications,
Vijayawada.

... Appellant

And

The State of Andhra Pradesh,
Represented by its Principal Secretary,
Home Department,
Hyderabad and others.

....Respondents

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

Writ Appeal No. 404 of 2015

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PC: (Per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard Sri B.V. Subbaiah, learned Senior Counsel for the appellant and Sri S. Satyanarayana Prasad, learned Senior Counsel for respondent No.5.

This writ appeal arises from the order dated 21.5.2015 passed in Writ Petition No. 14652 of 2015. The impugned order reads thus:

“The relief sought in the Writ Petition is as follows:

.....declaring the action of the 3rd and 4th respondents in seizing the set up box belonging to the petitioner without issuing any prior notice and without conducting any enquiry is illegal, arbitrary and unconstitutional and without jurisdiction and violation of provisions of Cable Television Net Work Regulation Act 1995 and also Articles 14, 19, 19(1)(g) and 21 of Constitution of India and consequently direct the respondents to release the set up box belonging to the petitioner.”

In pursuance of the crime registered by the police under the provisions of Copy Right Act, 1957, set up box of the petitioner has been seized.

Since the alleged property is seized by the statutory authority, the petitioner has to invoke Section 451 Cr.P.C. if it is produced before the Court concerned. If the seized property is not produced, the petitioner has to invoke Section 457 Cr.P.C.

With the above observations, the Writ Petition is disposed of. No costs.”

In view of the order passed in the writ petition, learned Senior Counsel appearing for respondent No.5, yesterday submitted that the order was passed by consent of learned counsel for the parties and, therefore, the appeal should not be entertained. This submission of learned Senior Counsel was disputed by learned Senior Counsel appearing for the appellant. In view thereof, learned Advocates on record for the appellant and respondent No.5 filed affidavits.

We have perused both the affidavits.

Having considered the nature of controversy and to avoid embarrassment to the parties, so also to the learned counsel, who appeared before the learned Single Judge and to the learned Single Judge, who heard the matter, we made suggestions

to the learned counsel appearing for the parties and they have consented for the following order.

“The impugned order dated 21.5.2015 disposing of Writ Petition No. 14652 of 2015 is set aside. The writ petition and W.P.M.P. No. 19101 of 2015 are restored to file. The learned Judge, who heard the writ petition in the vacation is requested to hear the writ petition and W.P.M.P. No. 19101 of 2015 afresh.”

With these observations, the writ appeal is disposed of.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

3rd June, 2015

Pnb/ks

