

**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

W.P. No.30915 of 2014

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Heard Sri K.V.Satyanarayana, Learned Counsel for the petitioners, Sri G.Rama Sarma, Learned Counsel appearing for respondent Nos.1 and 2, and Sri S.Ravindranath, Learned Counsel appearing for respondent No.4. Despite service of notice, respondent No.5 has not entered appearance. The notice sent to respondent No.3 was returned unserved with the endorsement 'not claimed'. While an application is now filed for substituted service, considering the limited relief which can be granted in this Writ Petition, we see no reason to now require the petitioners to take out notice, by substituted service, on respondent No.3 herein.

Respondent No.3 in this Writ Petition filed L.G.C.No.15 of 2000 before the Special Court constituted under the A.P.Land Grabbing (Prohibition) Act, 1982. Respondent Nos.1 and 2 herein were declared, by the Special Court, to be land grabbers. Aggrieved thereby, respondent Nos.1 and 2 herein filed W.P.1942 of 2008. WPMP.No.26370 of 2009 in W.P.No.1942 of 2008 was filed by respondent Nos.3 and 5 herein to allow W.P.No.1942 of 2008, setting aside the judgment and order in L.G.C.No.15 of 2000 dated 10.12.2007, in terms of the compromise petition. It was specifically stated, in the said WPMP.No.26370 of 2009, that respondent No.3 therein (Sri Syed Ahmed Hassan/respondent No.4 herein) was not a necessary party.

Learned Counsel on either side would admit that respondent No.4 herein was neither a party to WPMP.No.26370 of 2009 nor to the compromise petition. This Court, by order in WPMP.No.26370 of 2009 and W.P.No.1942 of 2008 dated 29.10.2009, allowed the WPMP

setting aside the order in L.G.C.No.15 of 2000 dated 10.12.2007 in view of memorandum of compromise which was directed to form part of the order and to be annexed as part thereof. The Writ Petition was, accordingly, disposed of.

As respondent No.3 in WPMP.No.26370 of 2009 (respondent No.4 in the present Writ Petition) was neither a party to WPMP nor to the compromise petition, neither of the said orders would bind him. While Learned counsel on either side would agree that both the compromise petition, and the order passed by this Court, in WPMP.No.26370 of 2009 and W.P.No.1942 of 2008 dated 29.10.2009, would not bind respondent No.4, Sri S.Ravindranath, Learned Counsel appearing for respondent No.4, would however dispute the petitioners' entitlement to claim the subject property.

It is wholly unnecessary for this Court to examine the rival contentions on merits, or to take upon itself the task of considering whether the petitioners are entitled to claim a part of the property, as they have already filed a suit for specific performance in O.S.No.588 of 2009 before the II Additional Chief Judge, City Civil Court, Hyderabad. We consider it appropriate, in such circumstances, to make it clear that the order passed by this Court, in WPMP.No.26370 of 2009 and W.P.No.1942 of 2008 dated 29.10.2009, does not bind respondent No.4 herein as he was not a party to those proceedings. As we have not expressed any opinion on the merits of the dispute, between the petitioners on the one hand and respondent No.4 on the other, the Learned II Additional Chief Judge, City Civil Court, Hyderabad, shall adjudicate O.S.No.588 of 2009 on its merits uninfluenced by any observations made either in W.P.No.1942 of 2008 or in the present Writ Petition to the extent the interest of respondent No.4 herein is concerned.

The Writ Petition stands disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY,J

Date:09.02.2015

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