

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL No. 535 OF 2015
AND
WRIT PETITION No. 14777 OF 2015

30-06-2015

Between:

Talluri Poornachandra Rao

... Appellant

And

The State of Andhra Pradesh, rep., by the Principal Secretary,
Revenue Department, Secretariat, Hyderabad and six others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

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WRIT APPEAL No. 535 OF 2015

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

This writ appeal is directed against the order dated 21-05-2015 passed in Writ Petition No. 14777 of 2015. In the writ petition, the appellant sought direction to the respondents not to conduct survey by encroaching or by dispossessing him from the lands in dispute. It is not in dispute that the subject matter of the writ petition and the subject matter of A.T.C No. 10 of 2012 on the file of the Special Officer under the Andhra Pradesh (Andhra Area) Tenancy Act, 1956-cum-Junior Civil Judge, Gudivada is one and the same. A.T.C No.10 of 2012 is filed against four individuals including respondent No.7 herein.

Learned counsel for the appellant submits that in A.T.C No.10 of 2012, the appellant has already obtained order of injunction against the respondents therein, including respondent No.7 in the instant appeal, restraining them from disturbing his possession over the lands in dispute. That being so, we made a suggestion to learned counsel for the appellant that if the possession of the appellant is protected and if the respondents are allowed to conduct survey, whether he has any objection for the same. He submits that the appellant has no objection for the same. He further submits that if the respondents desire to conduct survey, they should do so with an advance notice to the appellant and that they should conduct survey in his presence.

In the circumstances, we dispose of not only the writ appeal but also the writ petition by the following order:

“In view of the interim order passed in A.T.C No.10 of 2012 whereby the appellant’s possession has been protected, the respondents are allowed to conduct survey of the lands in dispute. However, they shall not dispossess the appellant without due process of law. If the claim of the appellant that he is in possession, according to respondent Nos.1 to 6, is not correct or false, it is open for them to approach this Court for seeking recall of this order.”

With these observations, the writ appeal and the writ petition are disposed of.

It is made clear that we have not examined merits of the case. The Special Officer, before whom A.T.C No. 10 of 2012 is pending, shall decide the same on merits in accordance with law and uninfluenced by this order. It is once again made clear that we have passed this order on the basis of the statement made by learned counsel for the appellant that in A.T.C No. 10 of 2012, the appellant’s possession has been protected by the Special Officer.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

30-06-2015
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