

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

**W.A.No.823 of 2015**

**PC:** *(Per the Hon'ble Sri Justice S.V.Bhatt)*

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Heard Sri P.Venugopal, learned Senior Counsel for appellant, and Sri D.Prakash Reddy, learned Senior Counsel for respondent Nos.5 and 6 and learned Government Pleader for Revenue for respondent Nos.1 to 4.

This writ appeal is directed against the order dated 10.06.2015 in Review W.P.M.P.No.14255 of 2015 in W.P.No.2318 of 2015.

Through order dated 09.02.2015, W.P.No.2318 of 2015 was disposed of in the following terms:

“Having considered the rival submissions and considering the fact that the order challenged is only an ad-interim order and the contentions with respect to whether there was any delay in obtaining the order dated 02.08.2008 and whether the respondents 5 and 6 were not represented by their counsels had no knowledge about the proceedings dated 02.08.2008 and the effect of Section 19(2) of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 for all matters are required to be considered by the appellate authority in disposing of the matter. However, considering the fact that the order under challenge before the appellate authority was dated 02.08.2008 whereunder and whereby the protected tenancy rights in favour of the respondents 5 and 6 came to be rejected and when the appeal itself was adjourned very virtually on day-to-day basis, the interest of justice would be served if an order is passed directing that the respondents 5 and 6 shall not use the suspension order to create any third-party rights till disposal of the appeal by the third respondent. The third respondent shall dispose of the appeal preferably within a period of three months from today.”

The writ petitioner filed W.P.M.P.No.14255 of 2015 to review the order dated 09.02.2015 in W.P.No.2318 of 2015.

The learned Single Judge, after considering the alleged errors pointed out by the review petitioner and also the submissions made in this behalf, declined to review the order dated 09.02.2015. Hence, the appeal against the order dated 10.06.2015.

Sri P.Venugopal, learned Senior Counsel appearing for the appellant, challenges the order on various legal and factual grounds. One of the main objections of the learned counsel is that the writ petition is filed challenging the order dated 17.01.2015 whereunder the Joint Collector suspended the order dated 02.08.2008. The maintainability of appeal now entertained, it is contended, is a serious jurisdictional issue for consideration. In the case on hand, unless and until the jurisdiction issue is decided, the grant of suspension of order dated 02.08.2008 is impermissible and at any rate the condition not to create third party rights amounts to erroneous exercise of jurisdiction under Article 226 of the Constitution of India.

Sri D.Prakash Reddy, on the other hand, submits that the reasoning in the order dated 09.02.2015 or 10.06.2015 does not suffer from any infirmity and the statutory appeal filed by respondents 5 and 6 is pending before the 3<sup>rd</sup> respondent and all the objections, including maintainability, are matters for consideration and decision by respondent No.3. Therefore, he prays for dismissal of the appeal.

We have taken note of the submissions of learned Senior Counsel and perused the material available on record. In our considered view, the learned Single Judge, having regard to the nature of *lis* pending for adjudication before the 3<sup>rd</sup> respondent, declined to interfere with the suspension order dated 17.01.2015 granted by 3<sup>rd</sup> respondent. We are in agreement with the view taken by the learned Single Judge. We hasten to add that either the order passed by the learned Single Judge or by us in the instant appeal, does not in any manner foreclose legal and factual contest available to both parties.

We are satisfied that with the following order the writ appeal can

be disposed of.

“The legal and factual contentions available to the parties in the pending appeal are to be decided and heard *de hors* the view, if any, taken either in the order dated 09.02.2015 or 10.06.2015. The 3<sup>rd</sup> respondent is directed to dispose of the appeal in file No.B2/8018/2013 within a period of three months from the date of receipt of a copy of this order by giving opportunity to both the parties.”

Writ appeal is disposed of.

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

**ACJ**

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**DILIP B. BHOSALE,**

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**S.V.BHATT, J**

Date: 27.08.2015  
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