

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Appeal No.1411 of 2016

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri S.Subba Reddy, learned counsel for the appellants, and Sri N.Subba Rao, learned counsel appearing on behalf of the 1st respondent-writ petitioner and, with their consent, the Writ Appeal is disposed of at the stage of admission. This appeal, under Clause 15 of the Letters Patent, is preferred against the order of the learned Single Judge in W.P.No.35205 of 2016 dated 19.10.2016.

The appellants herein are respondents 5 to 7 in the writ petition which was filed by the 1st respondent herein. The respondent-writ petitioner sought a writ of mandamus to direct the police officials to provide police aid for implementation of the injunction order dated 07.09.2011 passed in O.S.No.394 of 2011 on the file of the I Additional Senior Civil Judge, Rajahmundry duly considering his complaint dated 02.10.2016.

At the stage of admission, without even putting the appellants (respondents 5 to 7 in the writ petition) on notice and without giving them an opportunity of being heard, the writ petition was disposed of directing the Station House Officer to conduct effective investigation and file a final report, if any, in accordance with law. The learned Single Judge made it clear that, if the situation necessitates, the Station House Officer was at liberty to use police force to protect the writ petitioner's personal liberty and property.

Sri S. Subba Reddy, learned counsel for the appellants, would submit, not without justification, that an order, which affects the appellants' rights, could not have been passed behind their back, and without giving them an opportunity of being heard.

While Sri N.Subba Rao, learned counsel appearing on behalf of the 1st respondent-writ petitioner, has put forth his contentions on merits, we are satisfied that the direction issued by the Learned Single Judge, permitting the Station House Officer to use police force to protect the 1st respondent-writ petitioner's personal liberty and property, could not have been passed without affording the appellants herein an opportunity of being heard.

On this short ground of violation of principles of natural justice, the order under appeal must be and is, accordingly, set aside. The Writ Petition is restored to file. The appellants herein shall file their counter affidavit on or before 31.12.2016. It is open to the 1st respondent-writ petitioner to request the Learned Single Judge to take up the writ petition, for admission, any day after 01.01.2017.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

22nd December, 2016
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Writ Appeal No.1411 of 2016

Date: 22.12.2016

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