

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT APPEAL No.1171 of 2016

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

The order of the learned Single Judge, in the writ petition filed by the society representing the residents in the said locality, required the Municipal Corporation to protect its lands from encroachment.

While Sri P. Ramachandran, learned counsel for the appellant, states that the lands belong to the appellant, Sri T. N.M. Ranga Rao, learned counsel for the respondent-writ petitioner, would point out that the appellant had filed O.S. No.1146 of 2014, before the Senior Civil Judge, Ranga Reddy District, wherein she had sought declaration of title, permanent injunction and delivery of possession.

The very fact that the appellant herein had sought delivery of possession in O.S. No.1146 of 2014 would show that she is not in possession of the subject lands. The order of the learned Single Judge only requires the Municipal Corporation to prevent encroachments thereupon. This Court, in proceedings under Article 226 of the Constitution of India, would not decide disputed questions of title, more so where the appellant has already invoked the jurisdiction of the competent Civil Court seeking such a relief. Suffice it to make it clear that the observations in the order of the learned Single Judge shall not be understood as a finding regarding title over the subject lands, and the Court below shall examine the claim of title on its merits.

Subject to the aforesaid observations, we see no reason to interfere with the order passed by the learned Single Judge.

The appeal fails and is, accordingly, dismissed. The miscellaneous applications, if any, pending, are also dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A. SHANKAR NARAYANA, J)

27th October, 2016

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