

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

WRIT APPEAL No.1257 of 2016

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

This Appeal, under Clause 15 of the Letters Patent, is preferred against the orders passed by the learned Single Judge in W.P.No.39147 of 2016 dated 14.11.2016. The appellants-writ petitioners claim that the Municipal Corporation was undertaking construction of a building on their property. In the order under appeal, the learned Single Judge observed that the questions whether the petitioners are the owners of the subject property, and whether the Municipal Corporation is constructing a building violating their rights, are matters which cannot be examined in judicial review proceedings under Article 226 of the Constitution of India; there were disputed questions of fact regarding ownership of the property; and the aggrieved persons had to workout their remedies before the appropriate Civil Court. Leaving it open to the appellants-writ petitioners to workout their remedies before the appropriate Civil Court, the Writ Petition was dismissed.

While Sri T.Rajinikanth Reddy, learned counsel for the appellants, would submit that disputed questions of fact would arise only if the respondents dispute that the property belongs to the appellants, and this Court should at least call upon the respondents to state the basis on which they claim to be entitled to construct the building, as has been rightly held by the learned Single Judge, in the order under appeal, the jurisdiction under Article 226 of the Constitution of India would not be exercised to adjudicate disputed questions of title, as all these matters can be properly adjudicated in

a Civil Suit before the Civil Court of competent jurisdiction. Interference in an appeal, filed under Clause 15 of the Letters patent, would be justified only if the order passed by the learned Single Judge suffers from a patent illegality. We find no such error in the order under appeal necessitating interference.

The writ appeal fails and is, accordingly, dismissed.

The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

Date:24.11.2016
v v

