

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

WRIT APPEAL No.1193 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 order passed by the learned Single Judge in W.P. No. 26716 of 2015 dated 28.9.2016 setting aside the endorsement issued by the Commissioner, Greater Visakhapatnam Municipal Corporation dated 5.6.2015, and in directing the 2nd respondent therein to consider the petitioners' application for permission for construction in the subject land strictly in conformity with the provisions of the Act and the bye-laws made thereunder, without reference to the question of title. Aggrieved thereby, the Greater Visakhapatnam Municipal Corporation is in appeal before us.

While several contentions are put forth by Sri S. Lakshminarayana Reddy, learned Standing Counsel for the G.V.M.C, it would suffice to note that, in the application filed by the respondents-writ petitioners seeking permission for construction of the ground plus first floor R.C.C. residential building, the buildings existing on that date were referred to as 14-13-7/5 and 14-13-7/6, Assessment No. 1088120101 and 1088121324 in Plot No. 100, S. No. 64/16B, Ward No. 50, Bhavaninagar, Pedagantyada Village, Gajuwaka Zone-V.

In the counter affidavit filed by them before the learned Single Judge, the appellant herein asserted that D. No. 14-13-7/5 stood in the name of Ms. K. Uma Maheswari, Ward No. 50 of Bhanojithota, Gajuwaka, as per the assessment records,

D. No. 14-13/7/6 as shown in the building application was not even in existence, and yet the sale deed dated 6.5.2015 refers to D. No. 14-13-7/5 as standing in the name of Karanam Appala Swamy from whom the 1st respondent is said to have purchased the subject property. This question has not been dealt with in the order under appeal.

While we were initially inclined to admit the appeal and grant stay, Sri G. Bhaskar, learned counsel for the respondents-writ petitioners, would submit that, instead, the order under appeal may be set aside, and the matter remanded to the learned Single Judge for his consideration afresh, and in accordance with law.

As the contentions urged in this appeal, and the specific averments in the counter affidavit, have not been dealt with in the order under appeal, we consider it appropriate to set it aside, and remand the writ petition for its examination afresh, and in accordance with law by the Learned Single Judge.

The writ appeal stands disposed of accordingly. The 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)

10th November, 2016

pnb

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



WRIT APPEAL No.1193 of 2016

Date: 10.11.2016

pnb

