

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

Writ Appeal No.1437 of 2016

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

The appellant's grievance in this appeal is that the order dated 09.09.2016 in W.P.No.28692 of 2016 was passed behind his back in a writ petition where he was not even arrayed as a respondent. While granting leave, by order in W.A.M.P.No.2545 of 2016 dated 22.12.2016, we noted the facts in detail including that the appellant claimed to be the owner of the property of which the respondent-writ petitioner was merely a tenant for some time; and the petitioner had vacated the premises in the month of June, 2015 itself.

Sri V.Jitender Rao, learned counsel for the appellant, would submit that the order under appeal, which required the Bank to take the premises into their custody and to put a seal thereon, would deprive the appellant of his right to reside in the premises, where he has been residing for the past several decades; and such an order could not have been passed without affording him an opportunity of being heard.

While Sri B.S.Prasad, learned Standing Counsel for the 2nd respondent-Bank, would dispute the appellant's title over the property, and claim that the 2nd respondent-Bank has already taken possession and had sealed the premises, Sri V.Jitender Rao, learned counsel for the appellant, would fairly state that it would suffice if the appellant is given an opportunity of being heard in the writ petition; the order, directing the premises to be sealed by the Bank and to take the said premises into their custody, may be permitted to remain in force pending further orders in the writ petition; and a set of papers, in the writ appeal, shall be handed over to B.S.Prasad, learned Standing Counsel for the 2nd respondent-Bank, during the course of the day.

Recording the submission of Sri V.Jitender Rao, learned counsel for the appellant, the order under appeal is set aside, W.P.No.28692 of

201 is restored to file and the appellant shall be arrayed as the 3rd respondent in the writ petition. Both the appellant and the 2nd respondent-Bank are permitted to file their counter affidavits in the writ petition within three weeks from today. It is open to any of the parties to request the learned Single Judge to take up the writ petition "for admission" any time after three weeks from today. Pending further orders in the writ petition, the respondent-Bank shall retain possession of the subject premises after taking delivery thereof, immediately.

The Writ Appeal stands 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)

29th December, 2016
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Date: 29.12.2016

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