

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT APPEAL NO.1427 OF 2016

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent Act, is preferred against the orders passed by the learned Single Judge in WP.No.43276 of 2016 dated 14.12.2016.

The appellants herein are respondents 9 and 10 in the Writ Petition. Respondents 1 to 3 herein filed WP.No.43276 of 2016 to declare the proceedings of the Tahsildar, Tekkali Mandal dated 09.12.2016 as arbitrary and illegal, and to direct the official respondents not interfere with the possession and enjoyment of the petitioners over land admeasuring Ac.1.25 cents. The proceedings, impugned in the Writ Petition, was a letter dated 09.12.2016 addressed by the Tahsildar, Tekkali Mandal to the Collector, Srikakulam District whereby, while making certain observations, a copy of the order was also marked to the Inspector of Police, Tekkali Police Circle, Srikakulam for taking necessary action. By the order under appeal, the learned Single Judge directed the respondents not to interfere with the possession of the petitioners over the subject property, except in accordance with the procedure established by law.

Sri D.Prakash Reddy, learned Senior Counsel appearing on behalf of the appellants, (respondents 9 and 10 in the Writ Petition), would submit that, since a civil suit was filed by the first respondent-writ petitioner No.1 against the appellants herein seeking mandatory and perpetual injunction, and no interim order

has been passed therein till date, the order under appeal, whereby the appellants have also been directed not to interfere with the possession of the respondent-Writ Petitioners, is illegal as it is the appellants specific case that they are already in possession of the subject land.

Sri P.Durga Prasad, learned counsel for the respondents-writ petitioners, would submit that the Writ Petition was filed as the Tahsildar had marked a copy of his letter to the Inspector of Police, Tekkali Circle for taking necessary action; the official respondents, under the guise of the impugned proceedings, were seeking to interfere with the respondents-writ petitioners' possession; and, as they have only sought a direction against the official respondents not to interfere, the appellants understanding of the order that, even they were retrained from interfering with the respondents-writ petitioners' possession, is evidently erroneous.

While it is no doubt true that the relief sought for in the Writ Petition is only against the official respondents (respondents 2 to 8 in the Writ Petition), the order passed by the learned Single Judge does not refer merely to respondents 2 to 8, but to the respondents in general. While the apprehension expressed by Sri D.Prakash Reddy, learned Senior Counsel, that the order may well be construed as requiring the appellants also not to enter upon the subject land, has considerable force, it is unnecessary for us to dwell on this aspect any further as Sri P.Durga Prasad, learned Counsel appearing on behalf of the respondents-Writ Petitioners, would fairly state that the relief granted by the learned Single Judge must be read in the context of the relief sought for in the Writ Petition which is only against respondents 2 to 8.

In view of the submission of Sri P.Durga Prasad, learned counsel for the respondents-writ petitioners, the order under appeal is modified. Respondents 2 to 8 shall not interfere with the possession of either the appellants herein or the respondents-writ petitioners or with their *inter-se* civil disputes. The Court below, before whom the aforesaid civil suit and other suits are said to be pending, shall adjudicate the rival claims on its merits without relying upon the observations either in the order under the appeal or in the order now passed by us.

The Writ Appeal stands disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

26th December 2016
RRB

