

THE HON'BLE THE ACTING CHIEF JUSTICE
RAMESH RANGANATHAN

&

THE HON'BLE SMT JUSTICE T. RAJANI

WRIT APPEAL No.692 of 2017

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

This appeal, under clause 15 of Letters Patent, is preferred against the order passed in WPMP.No.21124 of 2017 in WP.No.17276 of 2017 dated 25.05.2017. The appellant herein is the petitioner in the writ petition. He invoked the jurisdiction of this Court and, by way of interlocutory relief, sought a direction to the respondents not to make any further constructions in the old well admeasuring 16 sq. yards within the compound wall of the petitioner's house at Ramanthapur.

In the order under appeal, the learned single Judge noted that the case of the petitioner was that he had purchased 180 sq. yards of land under registered sale deed dated 08.11.1979; after obtaining necessary permission, he made construction in the said land; and now the respondent authorities were trying to close the well situated in the petitioner's land, and were making construction, without following due process of law. The learned single Judge also noted the submission of Sri Krishna Reddy, learned Standing Counsel for the GHMC, that the well was situated in a public road; the construction was being made in the well; and the respondents were not interfering with the possession of the petitioner in respect of 180 sq. yards of land purchased by him through registered sale deed dated 08.11.1979.

Sri G.V.L. Narasimha Rao, learned counsel for the appellant-writ petitioner, would draw our attention to certain photographs to contend

that the petitioner's compound wall was demolished by the Greater Hyderabad Municipal Corporation (GHMC), four pillars were raised, and construction had commenced in an extent of 16 sq. yards of land.

When we asked the learned counsel whether the petitioner was in possession of 180 sq. yards of land, as reflected in the registered sale deed dated 08.11.1979, learned counsel would submit that, while the extent of land purchased by the appellant-writ petitioner was 180 sq. yards, he was put in possession of an additional extent of 16 sq. yards of land; and it is in this extent of 16 sq. yards that the GHMC had commenced construction.

The order of the learned single Judge protects the petitioner to the extent of the 180 sq. yards of land which he purchased under registered sale deed dated 08.11.1979. Admittedly, the 16 sq. yards of land, where the GHMC is now making construction, is beyond the 180 sq. yards of land purchased by the petitioner. Questions whether the petitioner was put in possession of 16 sq. yards of land belonging to the vendor; whether the said land was part of the public road; and whether the appellant-writ petitioner had already erected a compound wall over this extent of 16 sq. yards, are all matters which this Court would not examine in writ proceedings under Article 226 of the Constitution of India.

If, as is now contended by the petitioner, he is in possession of an additional extent of 16 sq. yards of land, which is beyond the extent of 180 sq. yards referred to in the sale deed dated 08.11.1979, he cannot, at the same time, seek indulgence of this Court to protect

the encroachment, and his occupation of 16 sq. yards of land, not belonging to him. In any event, these are all matters which are required to be examined in the writ petition, after counter affidavits are filed by the respondents. The learned single Judge has safeguarded the petitioner's interest with respect to 180 sq. yards of land purchased by him. In an intra-court appeal, under clause 15 of Letters Patent, more so in an appeal preferred against an interlocutory order, the scope of interference is extremely limited. Save cases where the orders under appeals suffer from a patent illegality, no interference is called for. We find no such infirmity in the order under appeal.

The petitioner claims that the construction, now being made by GHMC, would prevent ventilation to his house. This order shall not preclude the petitioner from making a representation to the GHMC in this regard, and it is for the GHMC to consider the same in accordance with law.

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

RAMESH RANGANATHAN, HACJ

T. RAJANI, J

June 7, 2017
DSK