

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.443 of 2017

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

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the learned Single Judge in W.P.M.P. No. 12231 of 2017 in W.P. No. 9860 of 2017 dated 21.3.2017.

The appellant herein, is the petitioner in the writ petition. In the W.P.M.P. (the order passed in which is the subject matter of appeal herein), the appellant-writ petitioner sought suspension of the permission to construct 95 flats granted by the HMDA, pending disposal of the writ petition.

In the order under appeal, the learned Single Judge noted the petitioner's claim that she was one of the purchasers of a flat, out of 95 flats in the subject plot and observed that, since there was a third party interest, interim suspension, as prayed for by her could not be granted without issuing notice to the unofficial respondents; and, in case, an ex-parte interim order was passed, the interest of the purchasers of the remaining 94 flats would get jeopardized.

We are in complete agreement with the learned Single Judge to the extent he held that, in case an ex-parte interim order is passed, the interest of the purchasers of the remaining 94 flats would be jeopardized. However, instead of ordering notice in the WPMP, the learned Single Judge has dismissed the WPMP itself. The rights of the appellant-writ petitioner and other flat owners could have been adequately safeguarded by directing notice to be

issued in the WPMP, and taking it up for consideration after all the respondents were put on notice.

The order under appeal, to the limited extent the WPMP was dismissed, is set aside and the WPMP is restored to file. Sri V. Narasimha Goud, learned Standing Counsel for GHMC takes notice on behalf of the 2nd respondent, and seeks three weeks time to file a counter-affidavit. The appellant-writ petitioner herein is permitted to take out notice on the unofficial respondents and to file proof of service within three weeks. After notices are served on respondent Nos. 3 to 5, it is open to Sri Ch. V. Prasad Babu, learned counsel for the appellant-writ petitioner, to request the learned Single Judge to take up the WPMP for grant of interlocutory relief.

The writ appeal is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

10th April, 2017

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Date: 10.4.2017

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