

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No. 1085 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 order of the learned Single Judge in W.P. No. 18322 of 2017 dated 3.7.2017. The appellants are the petitioners in the writ petition. This writ petition along with W.P. No. 44098 of 2016 was disposed of by the learned Single Judge by a common order dated 3.7.2017.

In the order under appeal, the learned Single Judge observed that the appellants-writ petitioners' grievance related to the construction of a temple in a place earmarked for the park located between the appellants-writ petitioners' plots; and while the respondent-temple had obtained permission from the Sarpanch and the Panchayat Secretary, the appellants-writ petitioners' claim was that such permission was contrary to G.O. Ms.No.252 dated 31.3.2010. The learned Single Judge, after taking note of the fact that permission had already been granted to the temple by the Gram Panchayat, dismissed the writ petition.

Sri G. Venkateswara Rao, learned counsel for the appellants, would draw our attention to the earlier order passed by this Court in W.P. No. 14061 of 2017 dated 26.4.2017 filed by the appellants herein, questioning the action of respondent Nos. 3 to 6 therein, in constructing an un-authorised temple in a public place earmarked for a park. The said writ petition was disposed of by order dated 26.4.2017 permitting the appellants to submit a representation to the respondents, for redressal of their grievance, within two weeks; and directing the respondents to consider the same and take

appropriate action within six weeks thereafter. Even before the said representation was considered, the appellants have filed W.P. No. 18322 of 2017 seeking a direction to restrain respondent Nos. 6 and 7 from constructing a temple.

As the earlier writ petition, seeking a more or less identical relief, was disposed of by the learned Single Judge by order in W.P. No. 14061 of 2017 dated 26.4.2017, the maintainability of the present writ petition is doubtful.

While Sri G. Narender Reddy, learned Standing Counsel for the Gram Panchayat, would contend that permission was accorded by the Gram Panchayat for construction of a temple, Sri G. Venkateswara Rao, learned counsel for the appellants, would submit that permission is required to be accorded not by the Gram Panchayat, but by the District Panchayat Officer.

As the appellants-writ petitioners have already filed a representation on 8.5.2017 in compliance with the order in W.P. No. 14061 of 2017 dated 26.4.2017, and the 3rd respondent in this appeal does not appear to have disposed of the said representation till date, suffice it to direct the 3rd respondent to dispose of the representation forthwith, and in any event within three weeks from today.

Sri G. Narender Reddy, learned Standing Counsel for the Gram Panchayat, undertakes to inform the District Panchayat Officer of his obligations under this order.

As the validity of the permission accorded by the Gram Panchayat has also been put in issue by the appellants-writ petitioners in the representation submitted by them to the District Panchayat Officer, we see no reason to injunct construction of the

temple in the interregnum. Suffice it to make it clear that neither the order under appeal nor the order now passed by us would disable the District Panchayat Officer from taking action in accordance with law, after disposing of the representation already submitted by the appellants-writ petitioners herein.

With the aforesaid modification to the order of the learned Single Judge, the writ appeal is disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

3rd August, 2017
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Date: 03.08.2017

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