

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

Writ Appeal No.274 of 2008

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.6641 of 2000 dated 12.02.2007. The appellants herein are respondents 1 and 2 in the writ petition. The said writ petition was filed seeking a mandamus to direct the respondents therein to investigate into the incident of child lifting which happened in the early hours of 31.12.1999 at Gandhi Hospital, Secunderabad by conducting an enquiry into the incident, to trace the 10 day old girl, and to pay compensation of Rs.1,00,000/-.

In the order under appeal the Learned Single Judge noted that the 1st respondent-writ petitioner was admitted to Gandhi Hospital on 29.12.1999 for the purpose of undergoing a family planning operation; the allegation of the 1st respondent-writ petitioner that her child was stolen from the hospital was not denied by the respondents; theft of the child, right from the bosom of the mother, would indicate the drifting of moral and human levels in the society; even carnivorous animals would hesitate to have infant animals, or their mother, as their prey; even in uncivilised societies in the remotest areas also, such ghastly incidents do not occur, despite which such a ghastly incident took place in the heart of a metropolis; while the police may have its own difficulty in tracing the child, and investigation into such matters may pose problems, the agony of the 1st respondent-writ petitioner continued and registration of cases or, for that matter, a semblance of investigation into it, was hardly of any

solace to her; seven years had elapsed; and it was virtually next to impossibility to expect the child to be recovered.

Following the judgment of the Supreme Court in ***State of Haryana vs. Smt. Santra***¹, and the Delhi High Court in ***Shobha vs. Government of NCT, Delhi***², the Learned Single Judge observed that since the 1st respondent-writ petitioner had herself claimed Rs.1,00,000/- as compensation which, by any standard, was too moderate, the appellants herein (respondents 1 and 2 in the writ petition) were under an obligation to compensate the 1st respondent-writ petitioner for the mental agony undergone by her on account of their lapses. The Learned Single Judge allowed the writ petition with a direction to the appellants herein (respondents 1 and 2 in the writ petition) to pay Rs.1,00,000/- as compensation to the 1st respondent-writ petitioner with interest at the rate of 6% from the date of filing of the writ petition.

Even before us, it has not been disputed that the child was stolen from the hospital. Lack of adequate security in the hospital premises can only be the cause for child theft from within the hospital premises. While the agony suffered by the mother for the loss of her new born child cannot be compensated, the Learned Single Judge has, in the light of the compensation of Rs.1,00,000/- sought by the 1st respondent-writ petitioner, directed that the said amount be paid as compensation with interest at the rate of 6%.

Interference in an intra-court appeal, under Clause 15 of the Letters Patent, is justified only if the order of the Learned single Judge suffers from a patent illegality. In the facts and circumstances of the present case, we find no such infirmity in the order under

¹ AIR 2000 SUPREME COURT 1888

² 2004 ACJ 1479

appeal. We see no reason, therefore, to interfere with the order under appeal.

The Writ Appeal is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

14th February, 2017
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Date: 14.02.2017

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