

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT.JUSTICE T. RAJANI

Writ Appeal No.634 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 passed by the learned Single Judge in W.P. No. 8130 of 2017 dated 8.3.2017. The appellant herein is the petitioner in the writ petition wherein she sought a mandamus to the Sub-Registrar, Neknampur, Ranga Reddy District not to register any property to be sold by respondent Nos. 3 to 8 till the disposal of D.V.C. No. 180 of 2016 on the file of the III Metropolitan Magistrate, Erramanzil, Hyderabad.

In the order under appeal, the learned Single Judge observed that the petitioner had filed D.V.C. No. 180 of 2016 and it was for her to obtain appropriate orders from the said Court; and mere pendency of the DVC before the Court below did not justify this Court directing the 2nd respondent not to register any property to be presented by respondent Nos. 3 to 8 by exercising jurisdiction under Article 226 of the Constitution of India. The learned Single Judge saw no reason to entertain the writ petition and, accordingly, dismissed the same. He however, left it open to the petitioner to avail the alternate remedy in accordance with law.

In the present appeal, Sri Ch. Srihari, learned counsel for the appellant, would rely on **State of Orissa vs. Madan Gopal Rungta**¹, to contend that, pending disposal of the DVC, this Court has the power to grant the interim relief sought for. We are afraid that the judgment in **Madan Gopal Rungta**¹ is of no assistance to the appellant herein. The question which fell for consideration before the Supreme Court was whether the High Court could grant interim relief when it chose not to decide the rights of the parties. The Supreme Court observed that, while interim relief can be granted in aid of and as ancillary to the main relief

¹ AI 1952 SC 12

which may be available to the party on the final determination of his rights in a suit or proceeding; it is open to the High Court to investigate the case on its merits if it was of the opinion that there was no other convenient or adequate remedy; and if it comes to the decision that the petitioner's legal rights have been infringed which would have entitled them to a writ of mandamus, it could pass an interim order during the pendency of the said writ petition; but in cases where the Court declined to decide on the rights of the parties, and held that such issues should be investigated more properly in a Civil Suit, it cannot, for the purpose of facilitating institution of such suit, issue directions in the nature of temporary injunction under Article 226 of the Constitution of India.

In the present case the learned Single Judge has, in our opinion rightly, observed that, since the appellant had filed DVC No. 180 of 2016, it is for her to seek appropriate orders therein and no order could be passed by this Court restraining the Sub-Registrar from registering the properties till the disposal of the DVC. In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal. The writ appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T. RAJANI, J)

2nd June, 2017

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