

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal No.783 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.21515 of 2016 dated 28.04.2017. The appellant herein is the petitioner in the writ petition wherein he sought a mandamus to declare the order of the Additional Registrar (Housing) dated 25.05.2016, and the proceedings of the District Cooperative Officer, Hyderabad dated 03.06.2016, as arbitrary and illegal.

In the impugned order dated 03.06.2016 the Joint Registrar/District Cooperative Officer, after taking note of the instructions of the Commissioner for Cooperation to enquire into the representation of the 7th respondent and submit a report in the matter, instructed the Divisional Cooperative Officer to submit his report within three days while taking steps to restore the original plot allotted to the 7th respondent.

By proceedings dated 25.05.2016 the Additional Registrar (Housing) requested the District Cooperative Officer, Hyderabad (Urban) to furnish the report called for in the matter within ten days from the date of receipt of the memo for onward submission to the Government; and to issue directions to the Society to restore the original plot allotted to the individual.

On the ground that the impugned order, restoring the original plot to the 7th respondent, was passed without putting the appellant-writ petitioner on notice, and without giving him an opportunity of being heard, the jurisdiction of this Court under Article 226 of the Constitution of India was invoked. The appellant-writ petitioner had also put the jurisdiction of the Joint Registrar (Housing), to pass the impugned order, in issue in the Writ Petition.

The contention regarding violation of principles of natural justice found favour with the Learned Single Judge, and the impugned order was set aside directing the 3rd respondent to pass orders afresh in accordance with law, after hearing the appellant-writ petitioner and respondents 6 and 7, and after taking into consideration all the objections raised by them. The 3rd respondent was directed to pass orders as early as possible, preferably within a period of two months from the date of receipt of a copy of the order. The appellant-writ petitioner's contention, regarding the 3rd respondent suffering from lack of jurisdiction and the contention of the 7th respondent to the contrary were noted, but was not examined by the Learned Single Judge in the order under appeal.

As the order impugned in the writ petition was set aside for violation of principles of natural justice, the matter is now required to be examined afresh by the 3rd respondent. While the appellant-writ petitioner can no doubt invoke the jurisdiction of this Court, the question of jurisdiction can also be urged before the 3rd respondent who is bound to deal with the said contention, along with the other contentions urged before him by the parties to the said proceedings, and pass a reasoned order thereupon.

Modifying the order of the Learned Single Judge to the limited extent, that the appellant-writ petitioner can also raise the question of jurisdiction before the 3rd respondent, 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)

21st June, 2017
JSU

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
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Writ Appeal No.783 of 2017

Date: 21.06.2017

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