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

Writ Appeal No.945 of 2016

JUDGMENT: (per Hon'ble the Acting Chief Justice Sri 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.36074 of 2015 dated 05.11.2015.

Facts, to the limited extent necessary, are that the appellants were granted building permission for construction over a plot in Survey No.332 of Nagarkurnool. As the Telangana State Road Transport Corporation claimed title over the subject land, the Nagarkurnool Municipality issued a notice proposing cancellation of building permission. Aggrieved thereby the appellants filed W.P.No.17278 of 2015 wherein an interim order was passed permitting the appellants herein to raise construction. After completion of the building, the appellants approached the 2nd respondent for assessment of property tax. The said request was rejected holding that W.P.No.17278 of 2015 is pending on the file of this Court.

In the order under appeal, the Learned Single Judge observed that, when the construction of the building is itself the subject matter of W.P.No.17278 of 2015, the Commissioner, Nagarkurnool Municipality was justified in rejecting the appellants' application for assessment of property tax; mere non-assessment of the appellants' property to tax, pending adjudication of the dispute in W.P.No.17278 of 2015, would not cause any hardship to them as it is the Nagarkurnool Municipality which would be deprived of its revenue by way of property tax; and there was no justification in entertaining the Writ Petition. Leaving it open to the appellants herein to pursue

W.P.No.17278 of 2015 and, depending upon its result, to approach the Nagarkurnool Municipality for assessment of the property tax, the Writ Petition was disposed of.

While Sri M.Damodar Reddy, Learned Counsel for the appellants, would submit that the Civil Suit filed by the appellants, against the Telangana State Road Transport Corporation for declaration of their title over the subject land, has been decreed, Sri B. Mayur Reddy, Learned Standing Counsel for TSRTC, would submit that the said decree has not attained finality as the appeal, preferred thereagainst, is still pending before the appellate Court.

The fact that the appeal against the said decree is pending is not disputed by the Learned Counsel for the appellants herein. As the appellants were permitted to construct the building by way of an interlocutory order, as the validity of the notice issued by the Nagarkurnool Municipality earlier asking the appellants herein to show-cause as to why the permission granted to them should not be cancelled has not been finally adjudicated, and as the appeal filed by the Telangana State Road Transport Corporation claiming title over the subject land, is still pending adjudication before the appellate Court, the Learned Single Judge was justified in rejecting the appellants' request to direct the Nagarkurnool Municipality to assess them to tax. The Learned Single Judge has rightly observed that it is the Nagarkurnool Municipality which may have a grievance for not subjecting them to tax, and not the appellants.

In an intra-Court appeal, under Clause 15 of the Letters Patent, interference would be justified only if the order under appeal suffers from a patent illegality. We find no infirmity in the order under appeal necessitating interference in an intra-Court appeal.

The Writ Appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

RAMESH RANGANATHAN, ACJ

Dr.SHAMEEM AKTHER, J

Date:30.01.2017.
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