

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT. JUSTICE T. RAJANI

WRIT APPEAL No. 1256 of 2017

JUDGMENT: (*Per VRS,J*)

The Mutawalli of a Wakf, which was cited as the 4th respondent in a writ petition, has come up with the above writ appeal, challenging an *ex parte ad interim* order passed by the learned single Judge, while ordering notice in the writ petition filed by an entity styled as the Tenants' Welfare Association of the Wakf together with few people claiming to be the tenants.

2. Heard Mr. Prabhakar Sripada, learned counsel for the appellant, Mr. T. Srikanth Reddy, learned counsel for the respondents 1 to 7, who were the writ petitioners, and Mr. M.A. Mujeeb, learned standing counsel for the Wakf Board, appearing for the respondents 9 and 10.

3. The respondents 1 to 7 claiming themselves to be the Association of Tenants and also individual tenants, filed a writ petition in W.P.No.26114 of 2017 praying for a Mandamus directing the respondents not to dispossess them from the shops that they are in occupation, on the ground of non-payment of rents. While ordering notice in the writ petition on 10.08.2017, the learned single Judge passed an *ex parte ad interim* order to the following effect:

“In the meanwhile, respondents 2 & 3 shall intimate to the members of the first petitioner association with regard to the arrears of rent and the

outstanding amount, if any, payable by them to respondents 2 & 3 by virtue of their being tenants of the Wakf property within a period of fifteen (15) days from today and on receipt of such amount, the petitioners shall clear the arrears or submit proof of payment of arrears of rent within a period of fifteen (15) days thereafter.

In the meanwhile, there shall not be any dispossession of the existing tenants.”

4. Challenging the said order, the Wakf represented by the Mutawalli has come up with the above appeal.

5. At the outset, it should be pointed out that persons claiming to be the tenants of some of the shops owned by the Wakf filed the writ petition alleging threat of dispossession. Therefore, the learned single Judge ordered notice and granted protection. It is not a final interim order. It is an *ex parte ad interim* order, against which, the appellant has a remedy of filing an application for vacating the interim order.

6. The learned counsel for the appellant submitted that by the interim order, the learned single Judge permitted the Wakf Board to collect the rents. According to the learned counsel, the Wakf Board superseded the Committee of Management way back in the year 2012, and that the same became the subject matter of a challenge before the Wakf Tribunal. But, since a period of five years, as stipulated by Section 65 of the Wakf Act, has expired, the learned counsel contends that the impugned order to the extent it directs the payment of rents to

the Wakf Board is contrary to law. But, the above argument is also an argument that can be advanced in the vacate stay petition.

7. Therefore, the Writ Appeal is dismissed, leaving it open to the appellant to seek to get the order of the learned single Judge vacated by filing appropriate application.

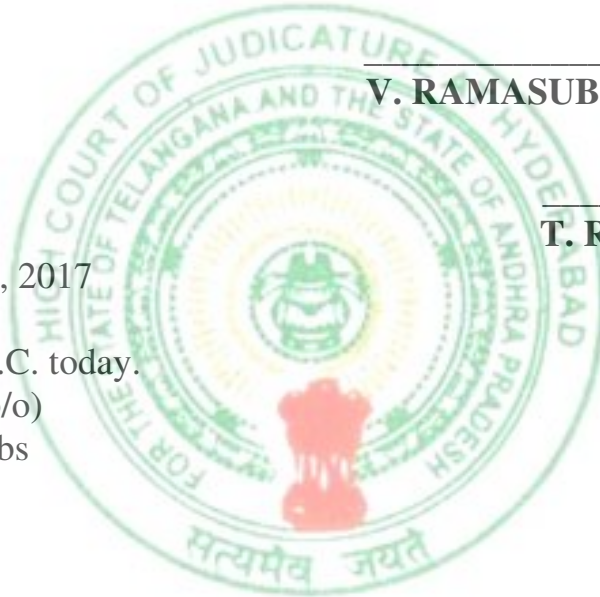
Consequently, miscellaneous petitions if any pending in the writ appeal shall stand dismissed. No order as to costs.

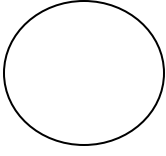
V. RAMASUBRAMANIAN, J

T. RAJANI, J.

8th September, 2017

Note: Issue C.C. today.
(b/o)
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THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN ✓
AND
THE HON'BLE SMT. JUSTICE T. RAJANI



Writ Appeal No.1256 of 2017
(dismissed)

8th September, 2017

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