

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.11406 OF 2016

ORDER:

The petitioner filed appeal before 2nd respondent against the orders of 3rd respondent vide D.Dis.(E4)/3807-B/2010 dated 17.12.2014. The petitioner also filed an application for grant of interim stay/suspension. The 2nd respondent through the order dated 21.03.2016 rejected the request for granting stay. The petitioner challenges the order dated 21.03.2016 rejecting the interim prayer made by petitioner.

On 07.04.2016, this Court has granted stay of dispossession of petitioner from the subject land. The interim order is subsisting as on day and at the same time, the appeal in Case No.CCLR. BCW/2/24/2015 is also pending.

The petitioner is working out the grievance against the order of 3rd respondent by filing appeal before 2nd respondent. The right of appeal is a substantive legal remedy and preservation of property or rights between the parties shall be maintained unless and until compelling circumstances are pointed out for taking a different view. In the case on hand, I have perused the reasons given by the 2nd respondent in the order impugned in the writ petition. The grounds referred in the order substantially relate to the merits of the appeal, but the fact of the matter is, the possession of petitioner under assignment is not disputed. Therefore, during the subsistence of appeal, the petitioner shall not be dispossessed by

respondents. After taking note of totality of circumstances and the pendency of appeal before 2nd respondent, I am satisfied that the writ petition can be disposed of by making the order dated 07.04.2016 as final order in the writ petition. The 2nd respondent considers disposing of the appeal after giving notice to petitioner as expeditiously as possible preferably within six months from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 18.07.2017
Sp



S.V. BHATT, J

