

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No.1394 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 ad-interim order passed by the learned Single Judge in W.P.M.P. No. 36067 of 2017 in W.P. No.28993 of 2017 dated 29.8.2017.

The appellant herein is the 3rd respondent in the writ petition. They are aggrieved by the order of the learned Single Judge dated 29.8.2017, granting interim suspension of the proceedings dated 21.08.2017 whereby the earlier LRS proceedings dated 12.3.2013 with respect to Plot No.73/A, Survey No. 403P Journalist Colony, Jubilee Hills, Hyderabad, was cancelled. On the very same day, yet another proceedings dated 21.8.2017 was issued by the GHMC cancelling the building permit for construction of a stilt plus three upper floors in Plot No. 73A, Survey No.403P situated at Journalist Colony, Jubilee Hills, Hyderabad vide Permit dated 22.12.2016. While the 1st respondent-writ petitioner had filed two WPMPs seeking suspension of both the orders dated 21.8.2017, it is represented by both Sri N. Sreedhar Reddy, learned counsel for the appellant, and Sri Vedula Srinivas, learned counsel for the 1st respondent-writ petitioner, that the order dated 21.8.2017, cancelling the building permit, has not been suspended and continues to remain in force as on date.

While Sri N. Sreedhar Reddy, learned counsel for the appellant, would contend that, as the subject land does not belong to it, the Government is not entitled to regularise the subject land ear-marked as an open space in a tentative layout formed by the appellant herein, Sri Vedula Srinivas, learned counsel for the 1st respondent-writ petitioner, would submit that, since a sale deed has been executed in

favour of the 1st respondent-writ petitioner, it is only if the said sale deed is cancelled, can the appellant be said to have any right over the subject land.

We are however, saved the trouble of examining the rival contentions on merits in the light of the submission of Sri Vedula Srinivas, learned counsel for the 1st respondent-writ petitioner, that only pits have been dug, and construction has not even commenced till date; and, irrespective of the interim order under appeal, the 1st respondent-writ petitioner would not proceed to raise any construction on the subject land for a period of three months from today.

While the submission put forth by Sri N. Sreedhar Reddy, learned counsel for the appellant, cannot be said to be without merit, we must also bear in mind that the order under appeal is an ad-interim order of suspension to which the appellant can file a counter-affidavit, and seek its vacation. The undertaking, furnished on behalf of the 1st respondent-writ petitioner, not to make any construction for a period of three months would adequately safeguard the interests of the appellant herein. Suffice it, therefore, to dispose of the Writ Appeal directing the 1st respondent-writ petitioner not to make any construction for a period of three months from today. It is open to the appellant, in the interregnum, to file a counter affidavit along with a petition to vacate the interim order. It is open to both the parties to request the learned Single Judge to take up the vacate stay petition at an early date. We have no reason to doubt that, on such a request being made, the learned Single Judge shall give it its due consideration. We make it clear that, in case the vacate stay petition is not taken up before the aforesaid period of three months, it is open to the 1st respondent-writ petitioner to request the learned Single Judge to extend the interim order passed by us in this order.

The Writ Appeal stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

18th September, 2017

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Date: 18.9.2017

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