

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

Writ Appeal No.292 of 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

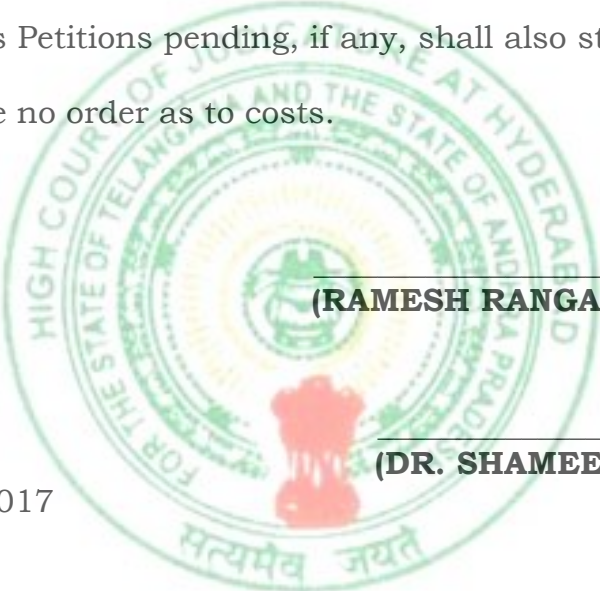
This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.24151 of 2016 dated 01.08.2016. The appellant herein is the petitioner in the writ petition. She was assigned a house site patta in the year 1980 which she sold to the 4th respondent. A suit for specific performance of the agreement of sale was instituted by the 4th respondent and, on the suit being decreed, a sale deed was executed in favour of the 4th respondent.

It is not in dispute that the decree of the Civil Court has attained finality. The appellant-writ petitioner, thereafter, has filed the present writ petition contending that, in view of the prohibition under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977, assignment is prohibited. The subject plot was assigned as a house site to the appellant-writ petitioner, in terms of the Board Standing Orders, which contains a clause prohibiting alienation except with the prior approval of the Revenue Divisional Officer within a period of 10 years. There is no restriction on alienation after ten years.

While Sri Nimmagadda Satyanarayana, learned counsel for the appellant-writ petitioner, would contend that mere absence of a clause prohibiting alienation would not justify alienation, the fact remains that, in the absence of any prohibition in this regard, no interference would be called for in proceedings under Article 226 of the Constitution of India.

It is indeed curious that the appellant-writ petitioner, who alienated the land in favour of the 4th respondent and has suffered a decree which has attained finality, should now turn around and contend that the alienation made by her is, itself, illegal. The Learned Single Judge has, in our view, rightly refused to grant the relief sought for in the writ petition. In an intra-court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

The Writ Appal 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)

(DR. SHAMEEM AKTHER, J)

16th March, 2017
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Date: 16.03.2017

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