

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

Writ Appeal No.561 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.V.M.P. No. 4874 of 2016 in W.P.M.P. No. 38281 of 2016 in W.P. No. 30926 of 2016 dated 15.3.2017.

An interim order of status-quo was passed, in W.P. No. 30926 of 2016 dated 19.9.2016 with regards possession over the subject lands. On a vacate stay petition being filed by the respondent-officials, the learned Single Judge vacated the earlier order of status-quo over the entire extent of Acs. 14.47 cents, and restricted the stay only to an extent of Acs.3.55 cents in Survey No.114-2 part.

Sri D.V. Sitarama Murthy, learned Senior Counsel appearing on behalf of the appellants-writ petitioners, would contend that the appellants and their ancestors were in possession of the subject lands for the past more than seven decades; as these lands are rain fed lands they were cultivated only when there was adequate rains; in the year 2016, they had planted eucalyptus saplings; the respondent-officials had removed these plants necessitating their invoking the jurisdiction of this Court; and while the initial interim order of status-quo was for the entire extent of Acs.14.47 cents, the learned Single Judge has restricted the interim order to an extent of Acs.3.55 cents without assigning any reasons.

On the other hand, the learned Government Pleader for Revenue would contend that both the in-charge Tahsildar and the

Village Revenue Officer had colluded, and had fabricated the records during the period 15.6.2015 to 28.9.2015; both the officials have since been placed under suspension; disciplinary action is being taken against them; the appellants cannot claim the benefit of such illegal entries in the revenue records; the subject land is in the possession of the Government; when the appellants were seeking to encroach upon the land, Government officials had taken steps to prevent such encroachments; and F.I.R. No. 64 of 2016 has also been registered against the appellants.

As the rival contentions are required to be examined in detail during the hearing of the writ petition, and as this appeal is only against the interlocutory order of the learned Single judge vacating the earlier interim order of status-quo, we see no reason to dwell on the merit of the rival submissions made by counsel on either side. The records placed before us by the appellants contain entries relating to the year 2005 also, besides the subsequent entries made in the revenue records. The submission of Sri D.V. Srirama Murthy, learned Senior Counsel, that, even if the latter entries were to be ignored, the former entries would show that the appellants are in possession of the subject land cannot be brushed aside.

As allegations of fraud are made by the Government against two of its officers, and as the photographs disclose that eucalyptus saplings were being planted which the respondent-officials have since removed, we direct both the parties to maintain status-quo as on today in all respects including possession, alienation, creation of third party rights, changing the nature of the land etc., pending disposal of the writ petition.

The writ appeal is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

27th April, 2017

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Date: 27.4.2017

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