

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

W.A.NO. 1084 OF 2017

JUDGMENT: (Per 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. 25557 of 2016, dated 19.6.2017. Respondents 1 to 5 in W.P.No. 25557 of 2016 have filed this writ appeal.

The respondents herein filed W.P.No. 25557 of 2016 to declare filing of cases against them under the Forest Act, and in seizing their two wheelers as illegal and arbitrary. They sought a consequential direction to set aside the proceedings initiated by 5th respondent in POR No.3111, dated 22.6.2016. They filed W.P.M.P.No.31564 of 2016 to release the two wheelers.

By the order under appeal, the learned single Judge allowed the writ petition setting aside the impugned proceedings in POR under File No. 12/OR/M/2016-17 dated 20.5.2016 and POR No. 3111, dated 22.6.2016 respectively, and directed the respondents therein to release the seized vehicles. This order was passed by the learned single Judge relying on the interlocutory order dated 10.4.2013 passed in WPMP No. 9772 of 2013 in W.P.No. 7805 of 2013; and the order dated 13.12.2015 passed in W.P.No. 42053 of 2015. In the order passed in W.P.M.P.No. 9772 of 2013 in W.P.No. 7805 of 2013 the learned single Judge, having noticed the discrepancy in the counter and the

letter dated 25.3.2013 addressed by the Divisional Forest officer, Warangal North Division to the Forest Settlement Officer, Warangal as regards the order dated 30.12.1976, directed the respondents therein not to interfere with the petitioners' possession in respect of the land covered by the order dated 30.12.1976 passed by the Forest Settlement Officer, Warangal. Aggrieved thereby, the appellants herein filed W.A.No. 1121 of 2013 and, by order dated 23.7.2013, a Division Bench of this Court was of the opinion that it was only a case of not providing sufficient material before the learned single Judge, and non-filing of proper counter-affidavit, which led to passing of the interim direction. The learned Government Pleader for Forest was thereafter directed to file a better counter-affidavit before the learned single Judge, and seek hearing of the matter at the earliest. The writ appeal was disposed of accordingly. As a result thereof, the earlier interim order dated 10.4.2013, in W.P.M.P.No. 9772 of 2013 in W.P.No. 7805 of 2013, continues to remain in force.

Thereafter the petitioners filed W.P.No. 42053 of 2015 and, during the hearing of the writ petition, the learned Government Pleader for Forest, on instructions, stated that the respondents were advised to withdraw the P.O.R; the said P.O.R. would be withdrawn within one week; and the vehicle would be released. In the light of the said submissions, the writ petition was disposed of directing the respondents therein to withdraw the POR case within a week, and release the tractor subject to production of documents in proof of ownership. The order in W.P.No. 42053 of 2015 dated 13.12.2015

was passed in the light of the submission of the learned Government Pleader for Forest that the respondents had been advised to withdraw the POR. No reliance can therefore be placed on the said order to set aside the PORs dated 20.5.2016 and 22.6.2016 respectively in the instant case.

As the earlier interim order dated 10.4.2013 in WPMP No. 9772 of 2013 in W.P.No. 7805 of 2013 continues to remain in force, and requires the appellants herein not to interfere with the possession of the petitioners therein, the appellants herein cannot interfere with the possession of the petitioners in W.P.No. 7805 of 2013 as long as the said interim order continues to remain in force. That, however, does not justify the order under appeal in W.P.No. 25557 of 2016 dated 19.6.2017 whereby the writ petition was itself allowed. We are, therefore, satisfied that the order under appeal necessitates being set aside and W.P.No.25557 of 2016 being restored to file.

As the relief sought for in W.P.M.P.No.31564 of 2016 is only for release of the two wheelers, there shall be an interim order, pending further orders in W.P.No. 25557 of 2016, directing the appellants to release the subject two wheelers to its owner on his furnishing documents in proof of his ownership of the vehicle. As the learned Government Pleader for Forest states that a petition to vacate the interim order, dated 10.4.2013 in WPMP No. 9772 of 2013 in W.P.No. 7805 of 2013 has already been filed, post W.P.No. 25557 of 2016 along with W.P.No. 7805 of 2013 before the learned single Judge. It is open to the learned Government Pleader for Forest to

request the learned single Judge to take up the vacate stay petition, filed by the appellants in W.P.No. 7805 of 2013, at an early date.

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

RAMESH RANGANATHAN, ACJ

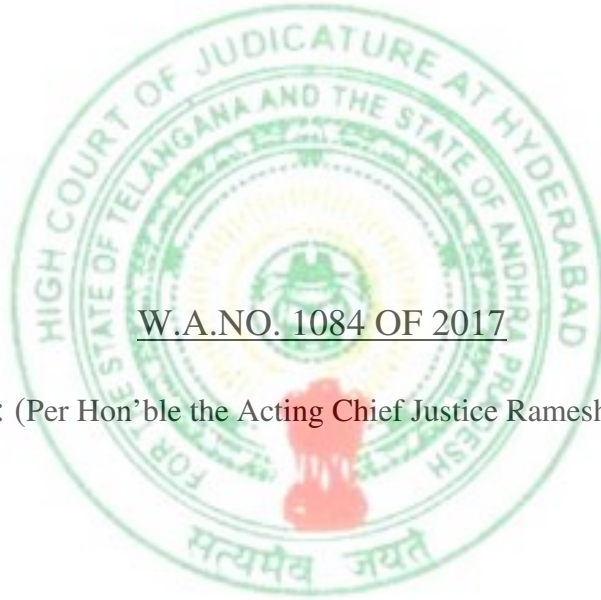
J. UMA DEVI, J

3rd August, 2017

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Dt. 3.8.2017