

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI

Writ Appeal No.1693 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred by the petitioner in W.P. No. 30915 of 2017 aggrieved by the order passed by the learned Single Judge dated 13.9.2017. The relief sought for in the Writ Petition is to declare the proceedings of the District Panchayat Officer dated 20.6.2017, and the consequential proceedings dated 29.6.2017 issued by the Panchayat Secretary, as arbitrary and illegal.

The appellant-writ petitioner was granted permission to construct a building on 5.6.2017. However, on the complaint of one Sri K. Ushanna that the appellant had occupied his land and was raising a shed thereon by changing the house number and that his father had filed O.S. No. 86 of 2016 with respect to the same property, the 1st respondent-District Panchayat Officer passed an order on 20.6.2017 granting stay of permission for construction issued earlier. Consequently, the 2nd respondent-Panchayat Secretary passed an order on 29.6.2017 implementing the order passed by the 1st respondent.

On the order of the 1st respondent-District Panchayat Officer, granting stay of the earlier permission granted for construction, being subjected to challenge, the learned Single

Judge dismissed the Writ Petition holding that, in view of the pendency of the Civil Suit, it was for the parties to work out their remedies in accordance with law. The learned Single Judge further observed that the petitioner had not impleaded the plaintiff in the suit, and the complainant before the 1st respondent.

While we find considerable force in the submission of Sri D.A. Prem Chand, learned counsel for the appellant-writ petitioner, that mere filing of a suit, by itself, would not give rise to a dispute regarding title; and the order, impugned in the writ petition granting stay of the permission granted earlier, is wholly unjustified in as much as no order was passed by the Civil Court in the said Suit, the fact remains that the learned Single Judge has also rejected the appellant-writ petitioner's request to interfere with the order passed by the 1st respondent-District Panchayat Officer on the ground that the complainant was not made a party to the writ petition.

We consider it appropriate, in such circumstances, to direct the 1st respondent-District Panchayat Officer to put both the appellant-writ petitioner and the complainant-plaintiff, in O.S.No. 86 of 2016 before the Junior Civil Judge, Armoor, on notice, give both of them an opportunity of being heard, and thereafter pass an order regarding grant of permission for construction at the earliest, and in any event,

not later than two months from the date of receipt of a copy of this order.

Needless to state that the order, passed by the 1st respondent-District Panchayat Officer earlier, shall continue to remain in force till orders are passed by him afresh, as indicated hereinabove.

The order under appeal is set aside and the Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(ABHINAND KUMAR SHAVILI, J)

13th November, 2017
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