

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

Writ Appeal No.1621 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 interlocutory order passed by the Learned Single Judge in W.P.M.P.No.14623 of 2017 and W.V.M.P.No.3089 of 2017 in W.P.No.11744 of 2017 dated 21.09.2017. The appellants herein are the petitioners in W.P.No.11744 of 2017. They claim to own different extents of land in Survey Nos.469 and 470 of Chivemla Village, Nalgonda District (presently Suryapet District) along with the 5th respondent and one Smt. Punnamma. It is not in dispute that they sold an extent of Ac.1.00 of land to Rock Church Ministries. As there was a dispute, regarding the remaining extents owned by each of them, the appellants approached the Tahsildar who, they claim had demarcated the subject land after conducting a survey, and had passed an order on 26.10.2015. Aggrieved thereby, the 5th respondent herein approached the District Collector who, by his order dated 06.02.2017, set aside the order passed by the Tahsildar.

Aggrieved thereby, the appellant-writ petitioners filed W.P.No.11744 of 2017 and, while an interim order was initially passed in W.P.M.P.No.14623 of 2017 on 29.06.2017, the said interim order was subsequently vacated by the order under appeal dated 21.09.2017. W.P.No.11744 of 2017 is still pending on the file of the Learned Single Judge. The 5th respondent herein is said to have filed a Suit seeking an order of injunction to restrain the appellant-writ petitioners from interfering with her property in Survey No.470. The Suit in O.S.No.204 of 2010 is still pending on the file of the learned Junior Civil Judge, Suryapet.

In the order under appeal, the Learned Single Judge observed that, *prima facie*, the decree passed in O.S.No.1585 of 1986 showed that Ac.0.19 guntas and Ac.0.16 guntas were reflected in Survey Nos.469 and 470 separately with different boundaries; it was thus clear that the extent of land owned by the appellant-writ petitioners in Survey No.469 appeared to be only Ac.0.19 guntas; if that be so, after the sale of Ac.0.18 guntas of land to Rock Church Ministries, the appellant-writ petitioners could only claim the balance of Ac.0.1 gunta of land (or at the most Ac.0.1½ guntas of land) in Survey No.469; he saw no illegality in the decision of the District Collector; balance of convenience was also not in favour of the appellant-writ petitioners; and the interim order granted earlier was liable to be vacated.

While Sri B.Prabhakar, learned counsel for the appellant--writ petitioners, would submit that the Learned Single Judge had erred in holding that an extent of Ac.0.18 guntas of land was sold to Rock Church Ministries in Survey No.469 when, in fact, an extent of Ac.1.00 of land was sold to the said institution in both Survey Nos.469 and 470 together, Sri C.Yadagiri, learned counsel for the 5th respondent, would support the decision of the District Collector, and contend that the District Collector was justified in setting aside the order of the Tahsildar.

The view expressed by the Learned Single Judge, in the order under appeal, is only a *prima facie* view. As the 5th respondent has filed a Suit seeking injunction to restrain the appellant-writ petitioners from interfering with her possession, suffice it to make it clear that O.S.No.204 of 2010 shall be adjudicated by the learned Junior Civil Judge, Suryapet on its merits, uninfluenced by the observations made in the order passed by the Learned Single Judge which is now under appeal before us. In an intra-court appeal, under Clause 15 of the

Letters Patent, we see no justification to set aside the order under appeal as that would result in revival of the order of the Tahsildar. Suffice it to make it clear that the order of the District Collector, which is impugned in the writ petition, shall be subject to the result of the main writ petition pending before the Learned Single Judge.

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

(RAMESH RANGANATHAN, ACJ)

08th November, 2017
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(ABHINAND KUMAR SHAVILI, J)



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Date: 08.11.2017