

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Writ Appeal No.1762 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 docket proceedings dated 14.11.2017 in W.P.No.38152 of 2017.

The Learned Single Judge, after taking note of the submission urged on behalf of the appellant-writ petitioners that the entire proceedings lapsed in the light of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, also noted the submission urged by the learned Assistant Government Pleader for Land Acquisition that the appellant-writ petitioners had executed a document in proof of their handing over possession of the lands in question, and it was not open to them to contend that physical possession had not been taken, and that time be granted to file a counter. Thereafter, the Learned Single Judge merely deferred hearing of the writ petition by two weeks, and directed the matter be listed after two weeks in the motion list.

While Ms.Vasudha Nagaraj, learned counsel for the appellant-writ petitioners, would contend that failure to interdict the respondents herein from taking possession of the subject property would cause irreparable harm and injury to the appellant-writ petitioners, we are bound by the law declared by the Division Bench of this Court in ***Kunala Subbarao vs. P.Nagaratnayamma***¹ wherein it was held that the action of the Learned Single Judge in ordering notice and in deferring hearing of the writ petition, does not constitute a judgment; and, it is only against a judgment, would an appeal, under Clause 15 of the Letters Patent, lie.

¹ AIR 1982 AP 443

In the light of the law declared in ***Kunala Subbarao vs. P.Nagaratnayamma***², a judgment of a Coordinate Bench which binds us, and in as much as the said judgment was followed by this Court in W.A.No.918 of 2016 dated 29.09.2016, we see no reason to entertain this appeal under Clause 15 of the Letters Patent. The Writ Appeal fails and is, accordingly, dismissed.

Ms.Vasudha Nagaraj, learned counsel for the appellant-writ petitioners, would request this Court to atleast direct the Learned Single Judge to take up either the Writ Petition or the WPMP for hearing at an early date.

While it would be wholly inappropriate for us to interfere with the board of the Learned Single Judge, we have no reason to doubt that, on a request being made on behalf of the appellant-writ petitioners, for an out of turn hearing, the Learned Single Judge would give it its due consideration.

Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(GUDISEVA SHYAM PRASAD, J)

22nd November, 2017
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² AIR 1982 AP 443

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Date: 22.11.2017

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