

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

**Writ Appeal No.1738 of 2017**

**JUDGMENT:** {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard Sri O.Manohar Reddy, learned counsel for the appellants, Sri M.Chandra Sekhar Rao, learned counsel for the 1<sup>st</sup> respondent-writ petitioner, and Sri P.Krishna Reddy, learned Standing Counsel for respondents 3 and 4.

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.42528 of 2017 in W.P.No.34203 of 2017 dated 16.10.2017. The appellants herein are respondents 3 and 4 in the writ petition. They are aggrieved by the aforesaid order passed by the Learned Single Judge granting interim suspension as prayed for. The interim order sought for was to suspend the building permission granted vide permit dated 10.07.2017 passed by the GHMC (respondents 1 and 2 in the writ petition) pending disposal of W.P.No.34203 of 2017.

The 1<sup>st</sup> respondent herein had hitherto filed W.P.No.26232 of 2017 questioning the proceedings of the GHMC in Lr.No.1/C3/00368/2016/HO/748 dated 16/19.06.2017 whereby his objection, to the application submitted by the appellants for grant of building permission, was rejected on the ground that GHMC could not adjudicate title disputes; and grant of permission would not establish or affect ownership. The Commissioner, GHMC observed that the application for building permission was being considered subject to obtaining an undertaking, on Rs.100/- non-judicial stamp paper, that, in the event title was settled in favour of a third party by the Courts, the appellant would be solely responsible, and should adhere to the Court Orders; and the GHMC was at liberty to revoke the building permission.

While the building permission was granted, vide building permit order dated 10.07.2017 soon after the 1<sup>st</sup> respondent-writ petitioner's objections were rejected vide proceedings dated 16/19-06-2017, the Learned Single Judge had, in his order in W.P.M.P.No.32533 of 2017 in W.P.No.26232 of 2017 dated 15.09.2017, directed maintenance of *status quo* in respect of the subject property pursuant to the proceedings dated 16/19.06.2017 (which is the order passed by the GHMC rejecting the 1<sup>st</sup> respondent-writ petitioner's objections to the grant of building permission to the appellants herein).

Aggrieved thereby, the appellants herein had filed W.A.No.1418 of 2017. It was contended before a Division bench of this Court, by the learned counsel appearing on behalf of the appellants, that, while the appellants had no objection for grant of the relief sought for by the 1<sup>st</sup> respondent-writ petitioner (which was for grant of interim suspension of the proceedings dated 16/19.06.2017), the Learned Single Judge had travelled even beyond the scope of the writ petition in granting an order of *status quo*. The Division Bench noted the submission, urged on behalf of the appellants, that, on the basis of the orders passed earlier which were no longer in force, the order of *status quo* was passed; and the said order should be set aside. The Division Bench also noted the submission of Sri M.Chandra Sekhar Rao, learned counsel for the 1<sup>st</sup> respondent-writ petitioner, of fraud, fabrication of documents and cheating; the 1<sup>st</sup> respondent-writ petitioner's land was being grabbed by the appellant by changing the boundaries, executing a ratification deed, and showing the 1<sup>st</sup> respondent-writ petitioner's land as belonging to the appellant; and ends of justice would only be met if the appellant was prosecuted for his acts of fabrication and forgery.

The Division Bench then observed that, as the writ petition was pending adjudication before the Learned single Judge, the questions,

whether the appellant had indulged in acts of forgery or fabrication, would necessitate examination therein; the interim relief sought for in the writ petition was, in effect, the main relief sought for in the writ petition; and, ordinarily, this Court would not grant such a relief. However, since Sri O.Manohar Reddy, learned counsel for the appellant, had consented for such an order to be passed, the order under appeal in W.A.No.1418 of 2017 was modified; and, as sought for by the 1<sup>st</sup> respondent-writ petitioner, interim suspension was granted of the order of the GHMC dated 16/19.06.2017. The Division Bench made it clear that the interim order, passed by them in W.P.M.P.No.32533 of 2017, would not preclude the 1<sup>st</sup> respondent-writ petitioner from filing any other application before the Learned Single Judge to seek such other reliefs as were considered appropriate. The Writ Appeal was, accordingly, disposed of.

The 1<sup>st</sup> respondent-writ petitioner then filed W.P.No.34203 of 2017 before the Learned Single Judge questioning grant of building permission to the appellants vide building permit dated 10.07.2017 which, as noted hereinabove, was granted even prior to the date on which the earlier interim order was passed in W.P.M.P.No.32533 of 2017 in W.P.No.26232 of 2017 dated 15.09.2017.

It is not in dispute that the appellants had filed a caveat petition, and had also filed their counter-affidavit before the Learned Single Judge, before the interim order under appeal came to be passed. Several contentions are urged by Sri O.Manohar Reddy, learned counsel for the appellants on the one hand and Sri M.Chandra Sekhar Rao, learned counsel for the 1<sup>st</sup> respondent-writ petitioner on the other, on the validity of the building permission granted by the GHMC on 10.07.2017. Sri O.Manohar Reddy, Learned Counsel for the appellant, further submitted that the entire frame of the five storied building was

already completed; and brick walls have been raised with respect two floors.

We must bear in mind that this appeal is preferred against the interlocutory order passed by the Learned Single Judge. In the interlocutory order under appeal, the Learned Single Judge has referred to the order of the GHMC in Lr.No.1/C3/00368/2016/HO/748 dated 16/19.06.2017, to W.P.No.26232 of 2017, and to the order of *status quo* passed in W.P.M.P.No.32533 of 2017. He then recorded that the appellants and the 5<sup>th</sup> respondent herein (respondents 3 to 5 in W.P.No.34203 of 2017) had filed W.A.No.1418 of 2017; a Division Bench of this Court had disposed of the said Writ Appeal by modifying the interim order granted by this Court; and, by virtue of the said order, the Division Bench had granted interim suspension of the order dated 16/19.06.2017. The Learned Single Judge further observed that the order impugned in the writ petition, granting building permission in favour of the appellants herein on 10.07.2017, was an order consequential to the order impugned in W.P.No.26232 of 2017; and as the Division Bench had, in its order in W.A.No.1418 of 2017, suspended the order dated 16/19.06.2017, he was of the opinion that the 1<sup>st</sup> respondent-writ petitioner was entitled for an interim order in the present writ petition. Aggrieved thereby, the present appeal.

Rejection of the objections, filed by the 1<sup>st</sup> respondent-writ petitioner, by the GHMC, in its proceedings dated 16/19.06.2017, is on the ground that the GHMC could not examine disputed questions of title. The effect of the interim order passed in W.P.No.26232 of 2017 is to suspend the proceedings dated 16/19.06.2017 which, in effect, means that the 1<sup>st</sup> respondent-writ petitioner's objections would revive, and must be held to be pending before the GHMC. The fact, however, remains that, even before the order was passed both in

W.P.M.P.No.32533 of 2017 in W.P.No.26232 of 2017 dated 15.09.2017 and in W.A.No.1418 of 2017 dated 22.09.2017, building permission had already been granted to the appellant on 10.07.2017. As the building permission was granted, long prior to the interim order passed in W.P.No.26232 of 2017 on 15.09.2017, the Learned Single Judge ought to have examined the appellants' claim that grant of building permit was valid, and the 1<sup>st</sup> respondent-writ petitioner's submission to the contrary, before directing interim suspension of the order of the GHMC granting building permission. This, the Learned Single Judge has failed to do, though a counter-affidavit was filed in the writ petition even before the interim order under appeal was passed.

Sri M.Chandra Sekhar Rao, learned counsel for the 1<sup>st</sup> respondent-writ petitioner, would refer to several documents, in support of his contention, that the appellants herein had played fraud and had usurped the 1<sup>st</sup> respondent-writ petitioner's land; they had surreptitiously obtained building permission, and were raising construction on the 1<sup>st</sup> respondent-writ petitioner's land; besides their acts of forgery and fabrication of documents, they had also committed perjury by making false submissions before the I Additional Senior Civil Judge, Ranga Reddy District in O.S.No.56 of 1997; and they had obtained building permission over an extent of 689.42 square meters of land, though the documents filed by them showed that they claimed title only for an extent of 491 square yards of land. As it is evident from the order under appeal none of these contentions, urged by Sri O. Manohar Reddy, Learned Counsel for the appellant, and Sri M.Chandrasekhar Rao, Learned Counsel for the respondent-writ petitioner, have been examined by the Learned Single Judge while passing the interim order under appeal.

The jurisdiction which this Court exercises, in an intra-Court appeal under Clause 15 of the Letters Patent, is extremely limited, as the Learned Single Judge is not a Court subordinate. The Division bench would, ordinarily, not be entitled, in such proceedings, to examine the matter on merits, more so when the substantive writ petition is still pending adjudication before the Learned Single Judge.

It is only if the interim order under appeal suffers from a patent illegality, would interference in proceedings under Clause 15 of the Letters Patent be justified. As noted hereinabove, despite a counter-affidavit being filed by the appellants herein in the Writ Petition, even before the interim order under appeal came to be passed, the Learned Single has not dealt with any of the contentions urged therein. We are satisfied that the order under appeal necessitates being set aside on the short ground that the Learned Single Judge had failed to examine the contentions urged in the counter-affidavit, filed on behalf of the appellant herein, before deciding whether or not an interim order should be passed. The order under appeal is, accordingly, set aside. We are, however, of the view that the matter should be heard early since serious allegations of fraud and fabrication of documents are urged on behalf of the 1<sup>st</sup> respondent-writ petitioner, and they claim that grave and irreparable harm would be caused to them in case the interlocutory application is not heard early.

The order under appeal is set aside, and W.P.M.P.No.42528 of 2017 in W.P.No.34203 of 2017 is restored to file. We have no reason to doubt that on a request being made, by the learned counsel for the 1<sup>st</sup> respondent -writ petitioner, for the WPMP to be heard early, the Learned Single Judge would give such a request its due consideration.

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

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**(RAMESH RANGANATHAN, ACJ)**

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**(GUDISEVA SHYAM PRASAD, J)**

20<sup>th</sup> November, 2017  
**Note: Issue C.C. in three days.**  
JSU



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



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**Date: 20.11.2017**

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