

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT APPEAL No. 1818 of 2017

JUDGMENT: (per HACJ)

This appeal, under Clause 15 of the Letters Patent, is preferred against the orders passed by the learned single Judge in W.P.No.37237 of 2017, dated 07.11.2017.

The appellants herein filed the writ petition seeking a mandamus to declare the action of the Station House Officer, Patamata Police Station, Vijayawada, Krishna District, in trying to interfere with their possession and enjoyment of the property in Ground, First and Second Floors of Morning Meadows, situated in Door No.59A-16-1/5, Teachers' Colony, Vijayawada City, as illegal and arbitrary.

In the order under appeal, the learned Single Judge recorded the submission of the learned Assistant Government Pleader (Home), on instructions, that the respondents were not interfering with the petitioners' possession of the subject property, and dismissed the writ petition granting liberty to the writ petitioners to file a comprehensive suit against the private parties who were interfering with the petitioners' possession, as also the officers against whom allegations were made that they were acting as agents of such private parties since such actions, if they were true, were not in connection with the

continuation of investigation of the crime; and the officers would be doing such acts at their cost and expense.

Sri K. Raja Reddy, learned counsel for the appellants-writ petitioners, would submit that the relief sought for, in the Writ Petition, was only against the official respondents herein. It is they who, at the behest of the complainant in FIR No.523 of 2017 dated 27.07.2017, were interfering with the appellants-writ petitioners possession of the subject property. While *inter se* disputes, if any, between the complainant in FIR No.523 of 2017 and the appellants herein, can be the subject matter of examination in a duly constituted civil proceedings, that however does not enable the police officials, under the guise of a criminal complaint having been filed, to interfere with the appellants-writ petitioners' possession of the subject property; and the police officials cannot, under the guise of investigating a criminal complaint, seek to dispossess the appellants-writ petitioners from the property in their possession.

Learned Government Pleader for Home would reiterate the submissions made by the learned Assistant Government Pleader (Home) before the learned Single Judge, that, while the complaint in FIR No.523 of 2017 is being investigated, the respondent-officials are not interfering with the possession of persons who are in possession of the subject property.

In the light of the submission of the learned Government Pleader for Home, suffice it to hold that the respondent police officials shall not interfere with the possession of those who are in possession of the subject property. The order of the learned Single Judge is modified, and the respondents herein are restrained from interfering with the possession of those who are in possession of the subject property. It is made clear that the order now passed by us would not disable the official respondents from investigating into the crime in FIR No.523 of 2017 dated 27.07.2017, and take action in accordance with the provisions of the Criminal Procedure Code.

The writ appeal is disposed of accordingly. No costs. Miscellaneous petitions, if any pending, shall stand closed.



RAMESH RANGANATHAN, ACJ

GUDISEVA SHYAM PRASAD, J

29th November, 2017

KSM

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