

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

Writ Appeal No.18 of 2018

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.51822 of 2017 in W.P.No.41785 of 2017 dated 13.12.2017. The application of the appellant herein, that he be impleaded as a respondent in the Writ Petition, was ordered by the Learned Single Judge and he was impleaded as the 4th respondent in the Writ Petition. However, even without the appellant herein being given an opportunity of filing his counter-affidavit, the interim order under appeal came to be passed whereby the Joint Sub-Registrar was directed to register the documents, which were kept pending registration by him, and such registration was directed to abide by the result of W.A.No.1378 of 2012.

While the relief sought for in the writ petition was for a mandamus to declare the action of the respondents therein, more particularly the Joint Sub-Registrar, in not registering and releasing the documents presented for registration, and keeping the same pending in respect of several documents, as arbitrary and illegal, a similar direction was sought, by way of interim relief, to the Joint Sub-Registrar. In effect, the interim relief sought for is the main relief sought for in the writ petition. An interim order which has the effect of allowing the writ petition itself would, ordinarily, not be passed without the respondents being given an opportunity of filing their counter-affidavit. The fact that the respondents in the writ petition were not given such an opportunity is not in dispute.

On this short ground, the order under appeal is set aside and the WPMP is restored to file. The appellant and the official respondents

herein shall file their respective counter-affidavits in the Writ Petition within three weeks from today. It is open to the learned counsel for the respondent-writ petitioners to request the Learned Single Judge to take up the WPMP any day after three weeks.

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)

05th January, 2018
JSU

(GUDISEVA SHYAM PRASAD, J)



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Date: 05.01.2018