

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL**

Writ Appeal No.155 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 order passed by the Learned Single Judge in W.P.M.P.No.49537 of 2017 in W.P.No.39945 of 2017 dated 07.12.2017.

In the order under appeal, the Learned Single Judge observed that, according to the list communicated by the Commissioner of Endowments to the Commissioner & Inspector General of Stamps & Registration, the subject land is not included; and the Sub-Registrar, Stamps & Registration, Tirupati could not, therefore, refuse to register the subject land on the pretext that it belongs to the 2nd respondent-Matt (4th respondent in the writ petition). An interim order was passed directing the Sub-Registrar to receive the documents presented by the 1st respondent-writ petitioner for registration, in respect of the subject land, register the same strictly in accordance with the provisions of the Registration Act, 1908 and the Indian Stamp Act, 1899; and release them within a period of six weeks.

The relief sought for, in the writ petition, is for a mandamus to declare the action of the respondents therein in not receiving and processing the documents sought to be presented by the 1st respondent-writ petitioner for her land alleging that the same belongs to the 4th respondent-Matt therein, though the said survey numbers are not contained in the list communicated by the 4th respondent therein as the properties belonging to it. A consequential direction was sought to the respondents therein to receive and register the documents sought to be presented for registration by the 1st respondent-writ petitioner.

Learned Government Pleader for Registration and Stamps would draw our attention to the letter dated 05.07.2016, addressed by the Commissioner of Endowments to the Commissioner and Inspector General of Stamps and Registration, to which is enclosed a list which includes the lands belonging to the 2nd respondent-Matt (4th respondent in the writ petition). According to the learned Government Pleader, the Learned Single Judge had erred in relying on the earlier letter of the Commissioner dated 20.08.2014 in granting interim relief, which is in the nature of the main relief sought for in the writ petition, even without giving the appellants herein an opportunity of filing their counter-affidavit; and, if such an opportunity had been afforded, they could have brought the subsequent letter of the Commissioner of Endowments dated 05.07.2016 to the notice of the Learned Single Judge.

Ordinarily an interim relief, which has the effect of allowing the writ petition itself, is not granted at the stage of admission, without giving the appellants a reasonable opportunity of filing their counter-affidavit. Since it is now appears, on the basis of the submission of the learned Government Pleader, that the subsequent letter, addressed by the Commissioner of Endowments to the Commissioner and Inspector General of Stamps and Registration dated 05.07.2016, could not be brought to the notice of the Learned Single Judge as the appellants herein were not given an opportunity of filing their counter-affidavit, the order under appeal is set aside and the WPMP is restored to file. The appellants herein shall file their counter-affidavit within three weeks from today. It is open to Sri J.U.M.V.Prasad, learned counsel for the 1st respondent-writ petitioner, to request the Learned Single Judge to take up the WPMP for hearing any day after three weeks from today.

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)

(M.S.K.JAISWAL, J)

01st February, 2018
JSU



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Date: 01.02.2018

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