

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

WRIT APPEAL No.93 OF 2018

ORDER: (per 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. No.38596 of 2017 dated 17.11.2017. The respondent herein filed the said Writ Petition seeking a mandamus to declare the action of the respondents in including the petitioner's land, in Sy. No.1599/B admeasuring 250 square yards, in the list of prohibited properties as illegal, arbitrary and in violation of principles of natural justice. A consequential direction was sought to the respondent to delete the petitioners' lands, situated at Mysoorivaripalli Gram Panchayat, Railway Kodur village and Mandal, from the list of prohibited properties.

The Writ Petition, filed on 14.11.2017, came to be allowed three days thereafter on 17.11.2017 directing the Sub-Registrar (4th respondent in the Writ Petition) to receive and register the document presented by the petitioner, subject to compliance with other requirements of the Indian Stamp Act, 1899 and the Registration Act, 1908 by the petitioner, without reference to the impugned order. The Learned Single Judge directed the 4th respondent to receive and register the documents. The Learned Single Judge has not set aside the list of prohibited properties issued by the District Collector under Section 22A(1)(b) of the Registration Act. The Learned Single Judge could only have granted the relief if, and after, the petitioners' lands were deleted from the list of prohibited properties. Even otherwise, the order under appeal could only have been passed, after the appellants herein were granted a reasonable opportunity of filing their counter-affidavit. We

are satisfied that the appellants were denied a reasonable opportunity of filing their counter-affidavit as the Writ Petition was allowed three days after it was filed.

The order under appeal must therefore be, and is accordingly, set aside on this short ground, and the Writ Petition is restored to file. The appellants shall file their counter-affidavit within three weeks from today. It is open to Sri M.S.P. Kamaraju, Learned Counsel for the respondent-writ petitioner, to request the Learned Single Judge to take up the Writ Petition for admission, and for grant of interlocutory relief, any day after three weeks from today.

The Writ Appeal is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.



RAMESH RANGANATHAN, ACJ

M.S.K. JAISWAL, J

Date: 29.01.2018

MRKR