

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No.141 of 2018

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

The grievance of the appellants herein (respondent Nos.1 to 5 in the writ petition) is that the writ petition was disposed of, at the stage of admission, without giving them an opportunity of filing their counter-affidavit.

By the order under appeal in W.P.No.39330 of 2017 dated 30.11.2017, the Learned Single Judge allowed the writ petition setting aside the communication made by the District Collector, Anantapur to the Joint Sub-Registrar, Hindupur in so far as the subject land is concerned, and the order dated 01.11.2017 passed by the Joint Sub-Registrar. The Learned Single Judge directed the Joint-Sub-Registrar to register the said document presented by the respondent-writ petitioner, without reference to the list communicated to him by the District Collector, strictly in accordance with the provisions of the Indian Stamp Act, 1899 and the Registration Act, 1980. The District Collector was directed to pay costs of Rs.3,000/-, and a notice was issued to the Joint Sub-Registrar to show cause why proceedings, under the Contempt of Courts Act, should not be initiated against him for not considering the endorsement dated 13.12.2016 of the Tahsildar, Lepakshi Mandal, while passing the impugned order in the Writ Petition, and in acting contrary to the earlier order of this Court in W.P.No.2315 of 2017 dated 24.01.2017.

While the Writ Petition was sworn to on 20.11.2017, and could only have been filed thereafter, the order under appeal came to be passed on 30.11.2017 less than 10 days after the Writ Petition was

filed. It is evident, therefore, that the appellants herein were not given a reasonable opportunity of filing their counter-affidavit.

While Sri N.Ranga Reddy, learned counsel for the respondent-Writ Petitioner, would submit that, pursuant to the order passed by the Learned Single Judge, the document was registered and was released on 14.12.2017, Learned Government Pleader for Revenue (Assignment), appearing on behalf of the appellants, would contend that under threat of contempt, in view of the contempt proceedings initiated by the Learned Single Judge against him, the Joint Sub-Registrar had perforce to register and release the document.

As we are satisfied that the appellants herein were not given a reasonable opportunity of filing their counter-affidavit, the order under appeal is set aside and the Writ Petition is restored to file. The appellants herein shall file their counter-affidavit, in the Writ Petition, within four weeks from today. It is open to the learned counsel for the respondent-writ petitioner to request the Learned Single Judge to take up the Writ Petition any day after four weeks. Registration of the document, with respect to the respondent-writ petitioner's land, shall be subject to further orders in the Writ Petition.

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)

(KONGARA VIJAYA LAKSHMI, J)

05th February, 2018
JSU

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Date: 05.02.2018

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