

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND**

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No.50 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 WPMP No. 53826 of 2017 in W.P. No. 43408 of 2017 dated 22.12.2017 whereby the Superintendent of Police, West Godavari District was directed to ensure that the Circle Inspector of Police, III Town Police Station, Eluru registered a crime on the complaint made by the writ petitioners, and also to instruct the Circle Inspector to conduct investigation under Section 173 Cr.P.C.

This order came to be passed on the ground that, though earlier an interim order was passed in WPMP No. 53827 of 2017 in W.P. No. 43408 of 2017 dated 19.12.2017 directing the appellant and the other official respondents not to interfere with the possession and enjoyment of an extent of Acs.26.50 cents in Survey Nos. 23 and 24 of Gavaravaram Village, owned and possessed by the respondents-writ petitioners until further orders, the compound wall of a Girls Hostel was illegally demolished without putting the respondents-writ petitioners on notice, and without giving them an opportunity of being heard.

The earlier interim order dated 19.12.2017 is not under challenge in this Writ Appeal, and it is only the interim order in WPMP No. 53826 of 2017 in W.P. No. 43408 of 2017 dated 22.12.2017 which has been subjected to challenge.

The submission of the learned Government Pleader for Roads and Buildings is that any exercise of demolition can only be undertaken by the revenue officials and not by the R&B Department and, consequently, registering a crime against officials of the R&B Department is wholly unwarranted. Learned Government Pleader for Revenue, on the other

hand, would submit that the revenue officials were not involved in the exercise of demolition; it was undertaken exclusively by officials of the R&B Department; and, therefore, the learned Single Judge had rightly not directed registration of a crime against the revenue officials. These are not matters which we would, ordinarily, examine for the first time in proceedings under Clause 15 of the Letters Patent, more so, as the appellant has the remedy of filing a petition to vacate the said interim order after filing a counter- affidavit in the Writ Petition.

Leaving it open to the appellant to do so, the Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.



(**RAMESH RANGANATHAN, ACJ**)

(**M. GANGA RAO, J**)

18th January, 2018

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