

**THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN**  
**AND**  
**THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN**

**WRIT APPEAL No.73 of 2018**

**JUDGMENT:** (Per the Hon'ble Sri Justice V.Ramasubramanian)

Aggrieved by the positive interim direction issued by the learned single Judge in the pending Writ Petition, directing restoration of possession back to the writ petitioners of a property, the fifth respondent in the Writ Petition has come up with the above appeal.

2. Heard Sri K.Jaya Kumar, learned counsel for the appellant. Learned counsel Sri Sameer Kumar takes notice for respondents 1 to 3 and the learned Government Pleader takes notice for the other respondents.

3. It is a very strange case where the brother of the appellant herein, who is a practicing Advocate, made a complaint to the revenue officials against respondents 1 to 3 that they had encroached into the passage in between certain parcels of lands and had also caused damage. On the said complaint, proceedings were initiated under the Andhra Pradesh Land Encroachment Act, 1905. It appears that the competent authority ordered payment of damages, on the allegation that respondents 1 to 3 had caused damage to the passage. This is despite the fact that what could be ordered to be recovered under the Andhra Pradesh Land Encroachment Act is only an amount of assessment, rent, fee and a penalty.

4. After imposing damages, not authorized by law, proceedings under the Revenue Recovery Act were also initiated and the lands of respondents 1 to 3 were brought to sale. The appellant, at the instance of whose brother, the entire proceedings were initiated, participated in the auction and knocked away the properties of respondents 1 to 3. Therefore, respondents 1 to 3 came up with a Writ Petition praying for restraining the respondents dispossessing them from their lands. While ordering notice, learned single Judge directed the official respondents to restore possession of the lands back to respondents 1 to 3 herein. It is against the said order that the fifth respondent in the Writ Petition has come up with the above appeal.

5. A careful look at the pleadings would show that successively respondents 1 to 3 have been subjected to the proceedings under the Andhra Pradesh Land Encroachment Act and the Revenue Recovery Act, on the complaint against them that they had encroached into a common passage and damaged the same. This has ultimately resulted in their properties being lost to the brother of the original complainant. It is this which shocked the conscience of the learned single Judge and hence, he granted the interim direction as prayed for.

6. Therefore, we find absolutely no justification to interfere with the said order.

7. Hence, the Writ Appeal is dismissed. The miscellaneous petitions pending in this Writ Appeal, if any, shall stand closed. There shall be no order as to costs.

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**THOTTATHIL B. RADHAKRISHNAN, CJ**

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**V.RAMASUBRAMANIAN, J**

06.08.2018  
vs

