

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Writ Appeal No.70 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.No.35514 of 2017 dated 30.10.2017. The appellant herein is the 6th respondent in W.P.No.35514 of 2017. The 1st respondent herein filed the writ petition seeking a mandamus to declare the action of the respondents therein, in not conducting survey demarcation of the subject land, despite the orders and directions of this Court in W.P.No.16458 of 2014 and W.A.No.1113 of 2015, and issuance of notice of survey scheduled to be conducted on 17.10.2017, as arbitrary and irrational. A consequential direction was sought to the respondents therein to forthwith conduct survey demarcation of the subject land without any further delay, and grant such other relief as it deems fit in the circumstances of the case.

While Ms.V.Uma Devi, learned counsel for the appellant, would submit that the order under appeal was passed, even without putting the appellant herein (6th respondent in the writ petition) on notice and without giving them an opportunity of being heard, Sri Vedula Venkata Ramana, learned Senior Counsel appearing on behalf of the 1st respondent-writ petitioner, would submit that, in W.P.No.16458 of 2014, a Learned Single Judge of this Court had directed that a survey be caused of the subject land, and had permitted the appellant to put forth their objections, if any, to the survey; the objections raised by the appellant were rejected by the Surveyor; questioning the rejection, the appellant had filed W.P.No.39591 of 2017; and, instead of having the said writ petition adjudicated, the appellant was needlessly dragging on proceedings, necessitating the 1st respondent-writ petitioner having to

press for an order. Learned Senior Counsel would further submit that the cause in the writ appeal does not survive since, in terms of the order of the Learned Single Judge, a survey was conducted and completed on 17.01.2018.

On the other hand, Ms.V.Uma Devi, learned counsel for the appellant, would submit that the order of rejection was passed by the Surveyor on 09.10.2017; a copy of the said order was received by the appellant only on 25.10.2017; within a week thereafter, the appellant had filed W.P.No.39591 of 2017 on 01.11.2017; and, just a few days after the order was passed by the Surveyor on 09.10.2017, the 1st respondent-writ petitioner had filed W.P.No.35514 of 2017 in which the order under appeal was passed on 30.10.2017.

W.P.No.35514 of 2017 was filed on 23.10.2017 even before the appellant received a copy, of the order of rejection dated 09.10.2017, on 25.10.2017. While the order under appeal came to be passed on 30.10.2017, the appellant filed W.P.No.39591 of 2017 two days thereafter on 01.11.2017. It is not in dispute that W.P.No.35514 of 2017 was disposed of, at the stage of admission, based on the concession of the learned Government Pleader for Revenue that the survey would be completed within a period of eight weeks. The said order was passed without putting the appellant herein (6th respondent in the writ petition) on notice and without giving them an opportunity of being heard.

While it does appear that the survey was caused, pursuant to the order of the Learned Single Judge, on 17.01.2018, the very order, based on which the survey was caused, was passed without giving the appellant herein (contesting 6th respondent in the writ petition) an opportunity of being heard.

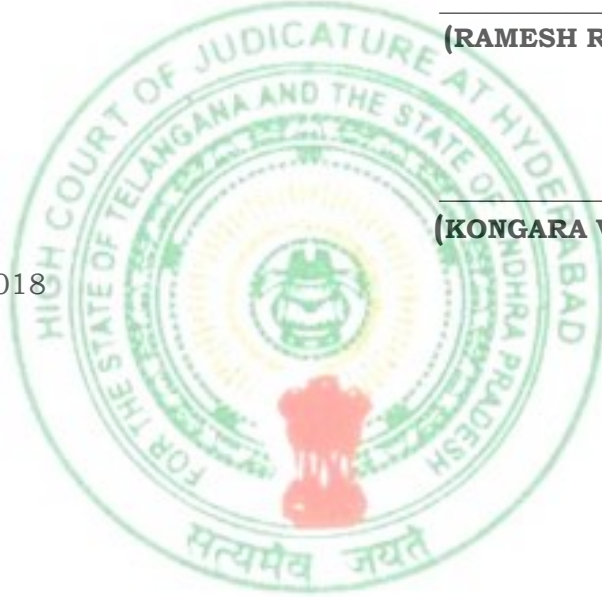
On this short ground, the order under appeal is set aside and W.P.No.35514 of 2017 is restored to file. The appellant shall file their counter-affidavit in the Writ Petition within two weeks from today. W.P.No.35514 of 2017 shall be listed along with W.P.No.39591 of 2017. It is open to the 1st respondent-writ petitioner to request the Learned Single Judge to take up both the writ petitions together for admission any day after two 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)

(KONGARA VIJAYA LAKSHMI, J)

22nd February, 2018
JSU



**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**



Writ Appeal No.70 of 2018

Date: 22.02.2018

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