

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

Writ Appeal No.122 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. 49635 of 2017 in W.P. No. 40025 of 2017 dated 12.12.2017.

The respondent herein filed the Writ Petition seeking a mandamus to declare the endorsement of the 5th appellant dated 20.4.2017, refusing to register the subject document on the ground that the subject land was classified as assigned land as per the list submitted by the revenue authorities, as illegal and arbitrary; and to direct the Joint Sub-Registrar, Madanapalle to register the land. By way of interim relief, the respondent herein sought a direction to the Joint Sub-Registrar, Madanapalle to register and release the subject document setting aside the impugned endorsement dated 20.4.2017.

In the order under appeal, the learned Single Judge observed that, in view of GO Ms. No.279 dated 4.7.2016, the subject land had been assigned to the respondent-writ petitioner's husband, who was admittedly an Ex-serviceman; and the Joint Sub-Registrar should receive the documents presented by the respondent-writ petitioner for registration and register the same in accordance with the provisions of the Indian Stamp Act, 1899 and the Registration Act, 1908 within a period of six weeks from the date of presentation of the documents.

While the learned Government Pleader for Revenue (Assignment) would submit that assignment of land in favour of the respondent-writ petitioner's husband was not because he was an Ex-serviceman, and genuineness of the assignment itself is suspect, it is wholly unnecessary for us to go into these aspects as we are satisfied that the learned Single

Judge ought to have given the appellants herein a reasonable opportunity of filing their counter-affidavit. The interim relief granted by the learned Single Judge is, in effect, the main relief sought for in the Writ Petition. Ordinarily an interim order, which has the effect of allowing the Writ Petition itself, is not passed at the stage of admission without giving the appellant-authorities (respondents in the Writ Petition) a reasonable opportunity of filing their counter-affidavit. While the respondent herein, (petitioner in the Writ Petition), took nearly seven months to file the Writ Petition questioning the endorsement dated 20.4.2017, even according to Sri K. Suresh Kumar Reddy, learned counsel for the respondent-writ petitioner, the time granted to the appellants herein, to file a counter-affidavit, was only two weeks.

As the appellants herein were denied a reasonable opportunity to put forth their case before the learned Single Judge by filing a counter-affidavit, and as the effect of the interim order is to allow the Writ Petition itself, the order under appeal is set aside and the WPMP is restored to file. The appellants herein shall file their counter-affidavit within three weeks from today. It is open to Sri K. Suresh Kumar Reddy, learned counsel for the respondent-writ petitioner, to request the learned Single Judge to take up the WPMP any day after three weeks.

The Writ Appeal is, accordingly, disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M.S.K. JAISWAL, J)

31st January, 2018

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Date: 31.01.2018

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