

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No.170 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.23720 of 2011 dated 18.09.2017. The appellants herein filed the Writ Petition seeking a mandamus to declare the action of the respondents in trying to encroach their land in Survey No.1248 of Shameerpet Village and Mandal, Ranga Reddy District, without issuing any prior notice, as illegal, arbitrary and violative of principles of natural justice. By way of interim relief, they sought a direction to the respondents not to demolish the mulgies, compound wall and the trees on the road side of the subject land, except by following the due process of law.

In the order under appeal, the Learned Single Judge noted the submission made on behalf of the respondents that, during the pendency of the writ petition, the land of the deceased-1st petitioner in Survey No.1248 was acquired by initiating proceedings but, in view of the interim order of this Court to maintain *status quo*, the compensation amount had been kept in the revenue deposit. The Learned Single Judge observed that, since the respondents had acquired the subject land by following due procedure, and the compensation amount was kept in revenue deposit, the cause in the writ petition did not survive necessitating any further adjudication; and the writ petition had become infructuous.

Sri T.Vijay Hanuman Singh, learned counsel for the appellants-writ petitioners, would submit that the appellants-writ petitioners own two bits of land in Survey No.1248; while one bit of land is vacant, a structure was raised on the other; the respondents had acquired the vacant land, and had deposited compensation; however, the other bit of land in Survey No.1248, on which there exists a structure, has not been acquired; and, even without acquisition, the respondents are seeking to demolish the structure.

Questions as to whether the respondents have acquired the entire extent of land belonging to the appellants-writ petitioners, whether it is one of the two bits of land in the said survey number which alone was acquired etc, are all matters which are extraneous to the present writ proceedings, since the land acquisition proceedings were initiated and completed only after the writ petition was filed. The relief sought for in the writ petition is to restrain the respondents from encroaching on the appellants-writ petitioners' land without issuing prior notice to them.

Suffice it, therefore, to modify the order of the Learned Single Judge, and direct the respondents not to encroach on the un-acquired land of the appellants-writ petitioners in Survey No.1248, or to demolish the structure raised thereupon, without putting them on notice and without giving them an opportunity of being heard. It is made clear that we have not expressed any opinion on the appellants-writ petitioners' contention that only one of the two bits of land has been acquired and the other bit, which contains a structure thereupon, is yet to be acquired under the

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

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)

(KONGARA VIJAYA LAKSHMI, J)

04th April, 2018
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Date: 04.04.2018