

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

Writ Appeal No. 264 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. 37155 of 2017 dated 12.12.2017.

The appellants herein are respondents 1 to 3 in the Writ Petition. Respondents 1 and 2 herein filed the Writ Petition to declare the action of the appellants in not issuing a fresh patta in favour of all the legal heirs of Late Sri Geratayya, in respect of the subject plot by cancelling the earlier patta issued on 19.10.2006 in favour of the 3rd respondent (4th respondent in the Writ petition), as illegal and arbitrary.

In the order under appeal, the learned Single Judge observed that, when the unofficial respondent approached him to issue a fresh patta (for the house site assigned to his father), the Tahsildar was obligated to enquire as to who were all the legal heirs of Sri Geratayya; he ought to have put them on notice, or at least insisted that the unofficial respondent should get a No Objection Certificate, from the respondent-writ petitioners, before cancelling the patta issued to Sri Geratayya, and issuing a fresh patta; in the counter affidavit it was stated that the respondent-writ petitioners should have filed objections at the appropriate time, and they should have approached the Civil Court; this perverse stand of the 3rd appellant could not be countenanced; and the action of the 3rd appellant was illegal, arbitrary and violative of Articles 14 and 300A of the Constitution of India. The Writ Petition was allowed. Cancellation of the patta, granted earlier to Sri Late Geratayya vide proceedings dated

19.10.2006, was set aside; and the allotment of the alternate site to the unofficial respondent was also set aside.

In view of the order of the learned Single Judge, the house site patta would continue to remain in the name of Late Sri Geratayya, and the appellants would be obligated to ascertain who his legal heirs were, and thereafter issue a house site patta in their names. Respondents 1 and 2 herein (petitioners in the Writ Petition) are the widow and daughter of Late Sri Geratayya, who was assigned a house site patta on 28.8.1970, and died on 9.7.1987. The unofficial respondent, son of Late Sri Geratayya, sought incorporation of his name, in the place of Late Sri Geratayya, in the house site patta assigned earlier to Late Sri Geratayya on 28.8.1970. The grievance if any, regarding the order passed by the learned Single Judge, can only be that of the unofficial respondent (i.e the son of late Sri Geratayya). The *inter-se* family disputes, between the respondent-writ petitioners and the unofficial respondent, would not justify an appeal being preferred by the State Government and its officials, more so, as it is not in dispute that respondents 1 and 2 herein are the widow and daughter of Late Sri Geratayya.

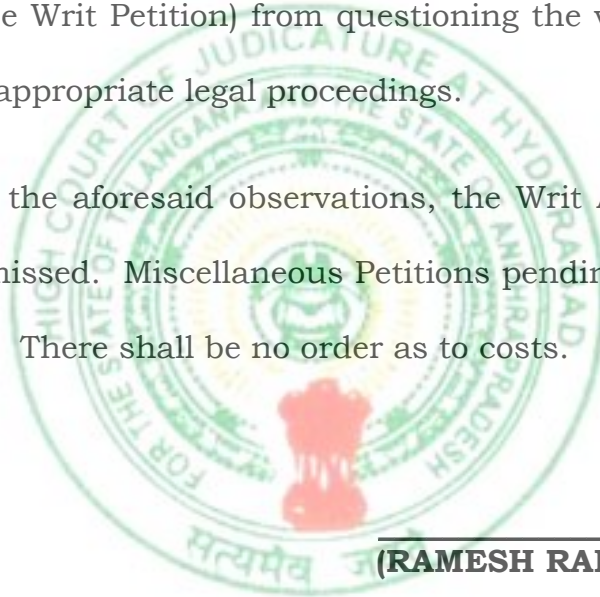
Learned Government Pleader for Revenue (Assignment) would, however, contend that imposition of costs of Rs.10,000/-, and disciplinary action being directed to be taken against the officials, was wholly unjustified as the respondent-writ petitioners had invoked the jurisdiction of this Court eleven years after the name of the unofficial respondent was incorporated, in the house site patta, on 19.10.2006.

Sri Ch. Dhanamjaya, learned counsel for the respondent-writ petitioners, would fairly state that the respondent-writ petitioners had no say in the imposition of costs and in disciplinary proceedings being directed to be initiated against the officials concerned.

The averment in the counter affidavit, stating that the respondent-writ petitioners had the remedy of filing a Civil Suit, even if unwarranted, may not justify imposition of exemplary costs, or in initiation of disciplinary proceedings. The order under appeal, to the extent costs of Rs.10,000/- was directed to be paid by the Tahsildar and the 1st appellant was directed to initiate disciplinary action against the 3rd appellant, is therefore set aside.

We see no reason, however, to entertain the appeal on all other aspects at the instance of the appellants herein. Suffice it to make it clear that this order shall not disable the 3rd respondent herein (the 4th respondent in the Writ Petition) from questioning the validity of the order under appeal in appropriate legal proceedings.

Subject to the aforesaid observations, 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)

(KONGARA VIJAYA LAKSHMI, J)

22nd February, 2018

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Date: 22.2.2018

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