

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

Writ Appeal No. 400 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 interim order passed by the learned Single Judge in W.P. No. 3488 of 2018 dated 5.2.2018.

The appellant herein filed W.P. No. 3488 of 2018 seeking a mandamus to declare the permission granted to the 3rd respondent, for construction of a commercial complex in Plot Nos. 564-A59 and Plot No. 400, as arbitrary and illegal.

The learned Single Judge passed the following ad-interim order.

“Notice before admission.

Learned counsel for the petitioner is permitted to take out personal notice to respondent No.3-Society and unofficial respondent Nos. 6 to 8 by registered post with acknowledgment due and file proof of service.

While granting time to Sri Sampath Prabhakar Reddy, learned Standing Counsel for respondent Nos. 4 and 5, who offers to appear and to get written instructions equally by learned Government Pleader for Municipal Administration for respondent No.1, learned Government Pleader for Cooperative Societies for respondent No.2, post on 6.3.2018.

In the meantime, any process of calling for tenders even can be finalized. No construction work for a non-residential purpose can be taken up for the core contention of the petitioner. The allotment is only for residential and not for any commercial purpose.”

Sri M.R.K. Chakravarthy, learned counsel for the appellant, would submit that, pursuant to the awards which have attained finality, EPs have been filed by the appellant-writ petitioner and others contending that they should be allotted Plot No.400; and, if any construction is made in Plot No.400 in the interregnum, their rights would be adversely affected in case they were to succeed in the EPs later.

On the other hand, Sri C.V.R. Rudra Prasad, learned counsel for the 3rd respondent, would submit that it is they who were aggrieved by the order of the learned Single Judge; as a result of the order under appeal, the 3rd respondent is not in a position to proceed with construction; and they intend taking steps to have the order under appeal vacated/set aside in duly constituted legal proceedings.

As the 3rd respondent has stopped construction in the light of the interim order under appeal, the appellant-writ petitioner's apprehension to the contrary is not well founded. We see no reason, therefore, to interfere with the order under appeal since, admittedly, the 3rd respondent has stopped construction both on Plot No.400 and 564-A59 in the light of the interim order under appeal. We make it clear that the order now passed by us shall not disable the 3rd respondent, if they are aggrieved by the order under appeal, from instituting appropriate legal proceedings.

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)

12th March, 2018

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Date: 12.3.2018

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