

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

Writ Appeal No.443 of 2018

JUDGMENT: *(per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)*

The 6th respondent, in Writ Petition No.5484 of 2018, has preferred this appeal against the order of the learned Single Judge dated 21.02.2018 disposing of the Writ Petition and in relegating the respondents-Writ Petitioners to prefer an appeal before the Competent Authority, within a period of 30 days from the date of receipt of a copy of the order; and *status quo*, with regards possession, shall be maintained till the disposal of the appeal. The learned Single Judge further observed that, if no appeal is filed within that time, the *status-quo* would not operate.

Sri V.V.N Narayana Rao, learned counsel for the appellant-sixth respondent would submit that the appellant and Respondent Nos.1 and 2 are siblings; though the appellant is in possession of the subject land, respondent Nos.1 and 2 herein are seeking to take advantage of the order of *status-quo* claiming that they are in actual possession; this has resulted in a law and order situation on ground; and the learned Single Judge could not have passed the order under appeal, at the stage of admission, without giving the appellant-sixth respondent an opportunity of being heard.

On the other hand Sri P. Rajesh Babu, learned counsel for the respondents-Writ Petitioners, would submit that, even before the order under appeal came to be passed, the respondents-Writ Petitioners had filed two suits before the Court of the Principal Junior Civil Judge, Narsipatnam; an order of injunction has been

passed therein against the husband of the appellant-sixth respondent in November, 2017 itself; and since the impugned order, passed by the Revenue Divisional Officer dated 18.08.2017, was served on them only in February, 2018, they had invoked the jurisdiction of this Court soon thereafter.

Ordinarily, a Writ Petition would not be finally disposed of at the stage of admission without putting the respondents therein on notice, and without giving them an opportunity of being heard. The learned Single Judge has passed the order under appeal relegating the respondents-Writ Petitioners to the remedy of preferring an appeal against the order of the Revenue Divisional Officer dated 18.08.2017. Interference in an intra-Court appeal, under Clause 15 of the Letters Patent, would be justified only if the order under appeal has caused substantial injustice to the appellant, or the said order suffers from a patent illegality. Since the appellant-sixth respondent claims to be in possession of the subject property, no prejudice can be said to have been caused to her as a result of the order under appeal necessitating her having to invoke the jurisdiction of this court under Clause 15 of the Letters Patent. We may, however, not be understood as having expressed any opinion on whether it is the appellant or the respondents-Writ Petitioners who are in possession of the subject land.

While the learned Single Judge has granted the respondents-Writ Petitioners thirty days time, from the date of receipt of a copy of the order, to prefer an appeal, we direct the respondents-Writ Petitioners, in the light of the rival disputes, to prefer an appeal within one week from today. In case such an appeal is filed within

the aforesaid period of one week, the District Collector shall pass a reasoned order thereupon, in accordance with law, within a period of three weeks from the date of receipt of the Writ Petitioners' appeal. It is made clear that we have not expressed any opinion on the merits of the case, as these are all matters to be examined by the Competent Authority; in case the respondents-Writ Petitioners do not prefer an appeal within the aforesaid period of one week from today, the order of *status quo* shall stand automatically vacated; and the Competent Authority shall hear the appeal on its own merits, after giving the appellant an opportunity of being heard, uninfluenced by any observations made in the order now passed by us.

The Writ Appeal is disposed of accordingly. No order as to costs. Miscellaneous petitions, if any, pending in these writ appeals, shall stand closed.



RAMESH RANGANATHAN, ACJ

KONGARA VIJAYA LAKSHMI, J

Date: 13.03.2018

Note: Furnish CC by tomorrow.

(BO)

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Writ Appeal No.443 of 2018
(per Hon'ble The Acting Chief Justice Ramesh Ranganathan)



Date: 13.03.2018

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