

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

WRIT APPEAL No.538 OF 2018

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

Heard Sri G. Vidyasagar, Learned Senior Counsel for the appellant, Sri M. Balaji, Learned Standing Counsel for the Vijayawada Municipal Corporation, the Learned Government Pleader for Municipal Administration and Sri Sai Gangadhar Chamorthy, Learned Counsel for the 4th respondent and, with their consent, the Writ Appeal is disposed of.

While the notice, issued under Section 636 of the Hyderabad Municipal Corporation Act, 1955, is indirectly subjected to challenge in this Writ Petition, we are informed that the appellant herein has filed W.P. No.9878 of 2018 questioning the said notice, which is pending on the file of the Learned Single Judge. It would be wholly inappropriate for us, therefore, to make any observations with regards the said notice; and its validity shall be examined in the said Writ Petition independent of, and uninfluenced by the order now passed by us. This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P. No.23367 of 2018 dated 14.07.2017. The 4th respondent herein filed the said Writ Petition seeking a mandamus to declare the inaction of the State of Andhra Pradesh, and the Vijayawada Municipal Corporation, to demolish the illegal structures raised by the appellant herein and another on the petitioner's complaint dated 24.07.2015, as arbitrary and illegal.

While the Writ Petition came to be filed on 13.07.2017, it was disposed of on the very next day i.e., 14.07.2017, without putting the appellant herein on notice, and without giving her an opportunity of being heard. The Learned Single Judge has, by the order under appeal, directed the Vijayawada Municipal Corporation to consider the petitioner's complaint dated 24.07.2015, and pass appropriate orders in accordance with law. The said direction was issued in as much as W.P. No.24456 of 2015 was disposed of by order dated 06.08.2015 observing that the issue of encroachments were pending consideration before the Land Grabbing Tribunal, and unless and until the issue was resolved, that cannot be a ground for setting aside the building permission granted; LGOP No.298 of 2013 filed by the petitioner therein (4th respondent herein) was allowed by order dated 01.06.2017 declaring the appellant herein and another as land grabber; and three months time was granted to vacate the premises.

Sri G. Vidyasagar, Learned Senior Counsel appearing on behalf of the appellant, would submit that the order in LGOP No.298 of 2013 dated 01.06.2017 was subjected to challenge in W.P. No.33927 of 2017 dated 14.07.2017, and interim stay was granted.

We are concerned in this appeal only with the order passed by the Learned Single Judge in W.P. No.23367 of 2017 dated 14.07.2017. The direction issued in the said Writ Petition, to the Vijayawada Municipal Corporation, is only because LGOP No.298 of 2013 was allowed by order dated 01.06.2017. As all further proceedings, pursuant to the order in LGOP No.298 of 2013 dated 01.06.2017, has been subsequently stayed by the order of the Division bench in WPMP No.42203 of 2017 in W.P. No.33927 of 2017 dated 26.10.2017 the

order under appeal whereby the Vijayawada Municipal Corporation was directed to consider the petitioner's (4th respondent's herein) complaint dated 24.07.2015, must be and is, accordingly, set aside.

The Writ Appeal is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

Date: 27.03.2018

Note: Issue copy by tomorrow.
B/o
MRKR

