

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

Writ Appeal No. 554 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. 7564 of 2018 dated 8.3.2018. The appellant herein filed the said Writ Petition seeking a mandamus to declare the action of the Assistant Director, Survey and Land Records, Mahabubnagar in issuing the survey notice dated 12.2.2018, to survey the appellant-writ petitioner's land and the land of the 4th respondent, ignoring the earlier survey conducted on 3.6.2003, which is the subject matter of the decrees passed in O.S. No.4 of 2004 and O.S. No. 110 of 2004, and which is the subject matter of the pending appeals in A.S. No. 8 of 2014 and 14 of 2014, as arbitrary and illegal.

In the order under appeal, the learned Single Judge, on a perusal of the impugned notice, observed that it was issued at the instance of the 4th respondent who was a neighbour to the appellant-writ petitioner's land; a copy of the notice was also served on the appellant-writ petitioner; there was nothing wrong in calling the owners of the neighbouring land, when the survey was conducted; the survey did not determine the rights of the parties, but merely indicated the location of the land; and the appellant-writ petitioner could not interdict such a survey on the ground that an appeal is pending before the learned Senior Civil Judge. While seeing no ground to interfere with the impugned notice, the learned Single Judge made it clear that it was open to the appellant-writ petitioner, if he was so advised, to file his objections on the survey report or at the time of conducting survey.

Sri M. Damodar Reddy, learned counsel for the appellant-writ petitioner, would reiterate the very same submissions which were urged

by him before the learned Single Judge. Learned counsel would contend that since the two appeals, in A.S. No. 8 of 2014 and 14 of 2014, are pending before the learned Senior Civil Judge, it is always open to the 4th respondent herein to seek such a direction before the learned Senior Civil Judge; and the application made to the Assistant Director, Survey and Land Records is only to prejudice the case of the appellant in the first appeals pending before the Learned Senior Civil Judge.

As has been observed by the learned Single Judge, in the order under appeal, a survey being conducted would not, by itself, determine the rights of the parties as it only indicates the location of the land. The appellant's interests have been adequately safeguarded by the Assistant Director issuing a notice to him regarding the survey being conducted. While we see no reason to interfere with the order under appeal, as the appellant cannot be said to have suffered substantial injury thereby, we make it clear that, as and when a survey is conducted, the appellant-writ petitioner shall be put on notice. It is open to him to file his objections during the course of survey and, if he is aggrieved by the survey report, to file his objections thereto as and when the survey report is relied upon.

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)

3rd April, 2018

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Date:03.04.2018

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