

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

Writ Appeal No. 549 of 2018

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal is preferred against the order passed by the learned Single Judge in W.P. No.32200 of 2017 dated 6.3.2018. The appellants herein are the unofficial respondents in the said Writ Petition. The 1st respondent herein filed the said Writ Petition seeking a mandamus to declare the action of the official respondents, in not protecting the land admeasuring 436 square yards in Survey No. 159/3 situated at Venkatadri Nagar, Vepagunta, Visakhapatnam from being used as a burial ground by the unofficial respondents and other villagers, as arbitrary and illegal.

After the Writ Petition was filed, a direction was initially issued that W.P. No. 32200 of 2017 be listed along with W.P. No. 3892 of 2014. It is fairly stated by Smt. M.S.V.S. Sudha Rani, learned counsel for the 1st respondent-writ petitioner, that, while W.P. No.3892 was listed along with this Writ Petition, the year of W.P.No.3894 was reflected therein as 2017 instead of 2014; and the name of Sri P. Roy Reddy, learned counsel appearing on behalf of the petitioners in W.P. No. 3892 of 2014, was not reflected in the cause list.

It does appear, therefore, that the order under appeal was passed without giving the appellants herein, who are unofficial respondents in W.P. No. 32200 of 2017 and who are the petitioners in W.P. No. 3892 of 2014, an opportunity of being heard. As the appellants herein filed W.P. No. 3892 of 2014 to restrain the respondents from interfering with their use of the land in Survey No. 159/3 of Venkatadrinagar to bury their dead, and as the relief sought for in the present Writ Petition is to the contrary, it is but appropriate that both the Writ Petitions are heard together; and orders are passed thereafter either as an interim measure, or as a final order. As the interim relief granted by the order under appeal, virtually amounts to allowing W.P.No.32200 of 2017, and in rendering W.P. No. 3892 of 2014 infructuous,

the order under appeal is set aside. Both W.P. No. 32200 of 2017 and W.P. No. 3892 of 2014 shall be taken up for admission together.

It is open to Smt. M.S.V.S. Sudha Rani, learned counsel for the 1st respondent-writ petitioner, to request the learned Single Judge to hear both the Writ Petitions together at an early date. We have no reason to doubt that, upon such a request being made, the learned Single Judge would give such a request its due consideration.

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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