

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND**

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal No. 582 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 I.A. No. 1 of 2018 in W.P. No. 8039 of 2018.

The appellant herein is the petitioner in the Writ Petition wherein he sought a mandamus to declare the action of the respondents, in initiating proceedings for acquisition of lands without administrative sanction, without conducting an environment impact assessment/social impact assessment, and in issuing a preliminary notification, the Section 19(1) declaration, and the award enquiry notice, as violative of the provisions of Act 30 of 2013, and as illegal and arbitrary.

By way of interim relief, he sought a direction to the authorities not to pass awards, and not to cause any kind of hindrance to the appellant-writ petitioner's possession and enjoyment of the lands in question.

In the order under appeal, the learned Single Judge noted the submission of the learned Government Pleader for Land Acquisition that the appellant shall not be dispossessed without an award being made and compensation being paid. After recording the said submission, the learned Single Judge issued notice in the I.A.

As held by a Division Bench of this Court in **Kunala Subbarao and Others vs. P. Nagaratnayamma**¹, proceedings, whereby hearing of the Writ Petition is deferred, do not amount to a "judgment" within the meaning of Clause 15 of the Letters Patent, conferring any right on the appellant-writ petitioner to avail the remedy of an intra-Court appeal under clause 15 of the Letters Patent. The order of the Division Bench

¹ AIR 1982 AP 443

of this Court in **Kunala Subbarao**¹ was followed in **T.M. Reddy Educational Society vs. State of Andhra Pradesh**².

Sri K.S. Murthy, learned counsel for the appellant, would submit that, as the learned Single Judge had recorded the submission of the learned Government Pleader in the light of the interim prayer sought for, the said order would amount to a “judgment” within the meaning of Clause 15 of the Letters Patent, conferring a right on the appellant-writ petitioner to invoke the jurisdiction of this Court.

As noted hereinabove, all that the learned Single Judge has done is to record the submission of the learned Government Pleader. No observations were made, nor was any finding recorded, in the order under appeal, and notice was merely issued in the I.A. The consequence of the order passed by the learned Single Judge is only that the hearing of the IA has been deferred. The law declared by the Division Bench in **Kunala Subbarao**¹ squarely applies to the facts of the present case, and the order under appeal is not a “judgment” within the meaning of Clause 15 of the Letters Patent. The Writ Appeal fails and is, accordingly, dismissed.

Needless to state that this order shall not disable the appellant-writ petitioner from effecting service of notice in the Writ Petition on the respondents, and thereafter requesting the learned Single Judge to take up the IA for an out of turn hearing.

Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

11th April, 2018

Note:

Furnish c.c. by tomorrow.

b/o Pnb

² Judgment in W.A. No. 918 of 2016 dated 29.9.2016

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