

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No.800 of 2018

And

Writ Petition No. 13310 of 2018

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

The relief sought for in this Writ Petition is for a mandamus to locate and demarcate the lands of the petitioners in Survey No. 83/1 and 84/2 of Bibipet Village, Kamareddy District.

In the affidavit, filed in support of the Writ Petition, it is stated by the appellant-writ petitioners that they had submitted a letter to the Revenue Divisional Officer, Kamareddy to survey their lands and demarcate the boundaries with metes and bounds; the Revenue Divisional Officer, Kamareddy had directed the Surveyor to survey their lands; the said Surveyor had visited their lands, but he could not execute the survey, and he left the place.

On perusal of the material on record the learned Single Judge, after noticing that the respondents themselves undertook the exercise of the survey by issuing notice, to the appellant-writ petitioners on 21.3.2018, that the survey would be conducted on 29.3.2018, and observed that the appellant-writ petitioners had failed to state as to what transpired during the survey. On the ground that the respondents themselves had issued notices for a survey, the learned Single Judge held that the appellant-writ petitioners' request, after such a survey was conducted, to again seek another survey was wholly mis-conceived. Relegating the appellant-writ petitioners to avail their legal remedies, the Writ Petition was dismissed.

Before us Sri V.S. Sudhakar, learned counsel for the appellant-writ petitioners, would submit that, by oversight, the subsequent factual events were not brought to the notice of the Court; no survey was in fact conducted pursuant to the notice issued on 21.3.2018 which was scheduled to be held on 29.3.2018; and the appellant-writ petitioners

had, in fact, submitted a representation on 2.4.2018 requesting measurement of the lands and to handover the lands to them.

While these factual disputes cannot be examined in an intra-Court appeal under Clause 15 of the Letters Patent, as these contentions were not even raised in the Writ Petition, the fact remains that the Writ Petition was dismissed at the stage of admission without the respondents herein filing their counter-affidavit. As the appellants now contend before us that no survey was actually conducted on 29.3.2018, though a notice was issued by the officials in this regard on 21.3.2018, it is necessary that this aspect be examined, and it is ascertained whether or not the survey was actually conducted on 29.3.2018.

Sri V.S. Sudhakar, learned counsel for the appellants, would submit that, in case permission is accorded to the appellants herein to withdraw the Writ Petition itself, they would file a Writ Petition afresh stating all relevant facts, including that no survey was conducted on 29.3.2018 or on any day thereafter.

In the light of the submission of the learned counsel for the appellants, and since he contends that failure to refer to the notice issued on 21.3.2018 was by oversight, we consider it appropriate to give the appellant-writ petitioners one more opportunity to put forth their contentions.

The order under appeal is set aside. The Writ Petition is restored, and is dismissed as withdrawn with liberty to the appellant-writ petitioners to file a Writ Petition afresh stating all the aforesaid facts in the affidavit filed in support thereof.

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

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

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