

HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.1091 of 2016

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

This Writ Appeal is against an interlocutory order dated 08.08.2016 in W.P.M.P.No.29243 of 2016 in W.P.No.23741 of 2016, by which an earlier interlocutory order dated 19.07.2016 has been modified.

2. We have heard the learned counsel for the appellants – writ petitioner Nos.4 and 5 and the learned Government Pleader for Revenue for respondent Nos.1 to 4.

3. The writ petitioners had sought for relief against their dispossession on the strength of pattas granted by the Government. On 19.07.2016, a learned Single Judge had granted an order of stay of dispossession. However, the impugned order was issued on 08.08.2016 confining the earlier interim order to the writ petitioners other than writ petitioner Nos.4 and 5. The interim order granted was extended as regards the other writ petitioners are concerned. Being aggrieved, writ petitioner Nos.4 and 5 are in appeal.

4. The learned counsel for writ petitioner Nos.4 and 5 argued that the modification of the interim order, adverse to the interests of writ petitioner Nos.4 and 5, was made on an oral submission on behalf of the State that the patta documents produced by petitioner Nos.4 and 5 are fabricated. He argued that such approach ought

not to have been adopted by the learned Single Judge without the Government placing pleadings and materials on record.

5. Per contra, the learned Government Pleader for the State argued that even if we were to go by patta documents, the extent that was covered by the patta is reflected by the descriptions in that document, while the writ petitioners have claimed larger extents to be under their possession.

6. The legitimate right of petitioner Nos.4 and 5 for interlocutory relief would obviously confine to the area covered by the pattas in their favour, while the learned counsel for the appellants argued that his clients were in possession of larger areas of lands. We are not inclined to take the view that such possession ought to be protected by the High Court in one go.

7. Contrasting the order issued in the course of the writ petition on 19.07.2016 and the impugned order dated 08.08.2016, we are of the view that ends of justice would be satisfied if the order dated 19.07.2016 is permitted to hold the field also as regards writ petitioner Nos.4 and 5 from today pending further orders and without prejudice to the State filing any vacate stay petition before the learned Single Judge.

8. The Writ Appeal is accordingly ordered, modifying the impugned order dated 08.08.2016 to the aforesaid effect and clarifying that the order given hereby will be confined to the extent

covered by the patta issued to petitioner Nos.4 and 5, who are the appellants before us.

As a sequel thereto, miscellaneous applications, if any, pending stand closed. No order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

RAMESH RANGANATHAN, J

Date: 11.07.2018
pv/vv

