

HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 16273 of 2018

ORDER:

The present writ petition is filed challenging the order in I.A.No. 2 of 2018 in L.E.A.No. 2 of 2018 dated 07.04.2018 passed by the 3<sup>rd</sup> respondent, refusing to grant stay of the orders passed by the 4<sup>th</sup> respondent dated 03.03.2018 under the Land Encroachment Act.

2. The proceedings under the Land Encroachment Act are with respect to alleging that an individual in possession of the land unauthorisedly is required to be evicted. Once the orders of the 4<sup>th</sup> respondent are implemented, there shall be nothing in the appeal that could be determined, if stay is not granted. The proceedings before the 4<sup>th</sup> respondent under the Land Encroachment Act being the proceedings of summary nature, in all fairness, the 3<sup>rd</sup> respondent ought to have taken up the main appeal and passed orders on merits, after considering the submissions of the appellant-petitioner herein. Dismissal of the said appeal merely observing that the prayer in the I.A "cannot be granted", cannot be said to be an order passed by considering the necessary material on record, and the reasons for granting or non-granting of stay.

3. The Writ Petition is accordingly allowed with a direction to the 3<sup>rd</sup> respondent to consider the appeal of the petitioner against the orders passed by the 4<sup>th</sup> respondent dated 03.03.2018 and pass appropriate orders within a period of eight weeks from the date of receipt of this order. Till disposal of the appeal by the 3<sup>rd</sup> respondent, the petitioner shall not be evicted from the subject-premises. Miscellaneous petitions pending, if any, stand closed.

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JUSTICE CHALLA KODANDA RAM

01.05.2018  
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