

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN

AND

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL No.1436 of 2016

JUDGMENT: (Per the Hon'ble Sri Justice S.V.Bhatt)

Heard the learned counsel appearing for the parties.

2. The appeal is at the instance of respondent No.3 in the Writ Petition and directed against the interlocutory order dated 17.06.2015 in W.V.M.P.Nos.3836 of 2012 and 145 of 2013. Through the order impugned in the appeal, the learned single Judge, after taking note of the *prima facie* case which is in favour of the writ petitioner/respondent No.1 in the appeal, with the following reasoning has made the stay order absolute:

“Another interesting feature of this case is that respondent No.3 is an educational institution intending to run a training institute. By any stretch of reasoning, an educational institution cannot be considered as an industry for a purpose of allotment of plot in an industrial area. This Court, while disposing of the earlier writ petition does not seem to have addressed this aspect. As the interim order was granted as far back as 02.04.2012, the petitioner has paid the entire sale consideration and not only provisional allotment was made but also registered agreement of sale was executed by respondent Nos.1 and 2 in favour of the petitioner, I find the elements of balance of convenience and irreparable injury in favour of the petitioner for continuing the interim order.

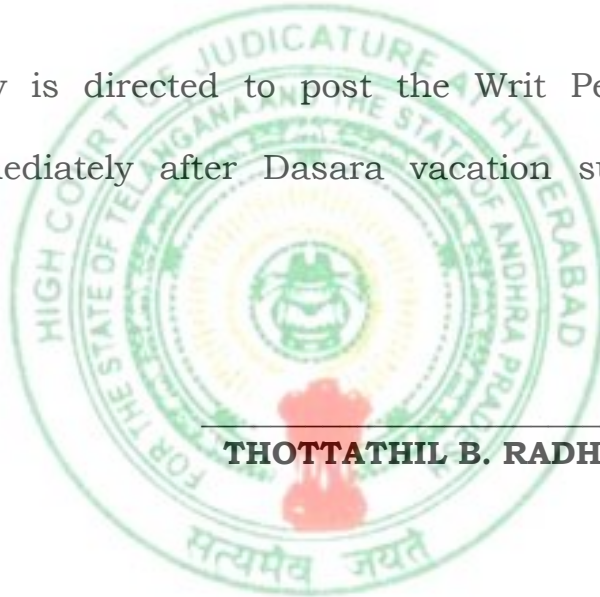
For the aforementioned reasons, interim order, dated 02.04.2012, in W.P.M.P.No.11484 of 2012 is made absolute.

W.V.M.P.Nos.3836 of 2012 and 145 of 2013 are dismissed and W.P.M.P.No.11484 of 2012 stands disposed of.”

3. The counsel for appellant reiterates very same grounds, which did not persuade the learned Judge to vacate the order dated 02.04.2012. These grounds are rejected for the same reasons recorded in the order under Appeal. We do not see a reason or a ground to interfere with the order impugned in the Writ Appeal.

4. Accordingly, the Writ Appeal is dismissed. The miscellaneous petitions pending in this Writ Appeal, if any, shall stand closed. There shall be no order as to costs.

5. Registry is directed to post the Writ Petition for final hearing immediately after Dasara vacation subject to part-heard.



THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

20.08.2018

vs