

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No.778 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 W.P. No. 5623 of 2018 dated 30.4.2018. The appellant herein filed the said Writ Petition to declare the action of the Assistant Commissioner of Endowments, in not initiating proceedings under Section 84(i) of Act 30/1987 to take possession of land admeasuring Acs. 3.20 guntas situated at Chudi Bazar adjacent to Begum Bazar, Hyderabad, belonging to the Mutt, as arbitrary and illegal.

By the order under appeal, the learned Single Judge disposed of the Writ Petition directing respondents 6 and 7 to vacate the subject premises on or before 13.1.2019, and to deposit a sum of Rs.10,000/- per month to the appellant-writ petitioner's account in the Oriental Bank of Commerce, M.J. Market Branch, Hyderabad on or before the 7th of every succeeding month starting from 7.5.2018; in default of payment of the amount as directed, respondents 6 and 7 were liable to be evicted forthwith by respondents 1 to 5 without reference to the Court; and if the affidavits/undertaking filed by respondents 6 and 7 are violated, and they do not vacate the subject property by 13.1.2019, respondents 1 to 5 were at liberty to evict respondents 6 and 7 without reference to the Court.

While Sri M. Vidya Sagar, learned counsel for the appellant, would submit, not without justification, that the learned Single Judge was indulgent in granting respondents 6 and 7, who had forcibly and illegally occupied an extent of 3½ acres of land belonging to the Mutt in a busy commercial area of Chudi Bazar in the City of Hyderabad; in this extent of 3½ acres, which respondents 6 and 7 were using as a parking place,

buses, cars and autos were being parked; and though they were earning between Rs.5,000/- to Rs.10,000/- every day, respondents 6 and 7 have been directed to pay a measly sum of Rs.10,000/- per month to the appellant.

We asked Sri L.Ravi Chander, learned Senior Counsel appearing for respondents 6 and 7, as to how respondents 6 and 7 were justified in retaining possession of the subject land belonging to the Mutt for a period of nine months, when the learned Single Judge has held that the land belongs to the Mutt. Today, the learned Senior Counsel has placed before us an affidavit filed by Sri Manoj Singh, the 6th respondent, wherein he has stated that he and the 7th respondent undertook to vacate the subject premises, with open land admeasuring Acs.3.20 guntas at Chudi Bazar, Hyderabad, belonging to the appellant-Mutt, within a period of four months, ie on or before 20.10.2018; and they be permitted to work out their remedies, including approaching the appropriate authorities for fresh lease in accordance with law.

As the learned Single Judge did not permit respondents 6 and 7 to seek extension of lease; and the appeal, against the order of the learned Single Judge, is preferred not by respondents 6 and 7, but by the appellant-writ petitioner, we may not be justified in granting respondents 6 and 7 any relief in an appeal preferred by the appellants. It is unnecessary for us to dwell on this aspect any further as Sri L.Ravichander, Learned Senior Counsel, would submit that any request which respondents 6 and 7 would make, for seeking extension of lease, would only be after they deliver vacant possession of the subject land to the appellant-Mutt by 20.10.2018.

With regards the appellant's claim for damages caused to them, on account of the illegal occupation and use of the subject premises by respondents 6 and 7, it does appear that the amount awarded by the learned Single Judge of Rs.10,000/- per month, for a vast extent of 3½ acres of land in a busy commercial area of Hyderabad, is inadequate. We

see no reason to make an assessment of what should be the amount which the appellants are entitled to receive from respondents 6 and 7, as it would suffice if the appellants are permitted, notwithstanding the order passed by the learned Single Judge, to avail their common law remedy of filing a Civil Suit for recovery of any amount which they are legitimately entitled to.

Recording the aforesaid undertaking of respondents 6 and 7 to vacate the subject land by 20.10.2018, and granting the appellant-Mutt liberty to file a Suit for damages, the Writ Appeal is closed. The miscellaneous petitions pending, if any, shall also stand closed. No costs.

19th June, 2018

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(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

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