

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No.1465 OF 2017

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

A curious case where the appellant-writ petitioner has invoked our jurisdiction, under Clause 15 of the Letters Patent, aggrieved by the order passed by the learned Single Judge allowing the writ petition filed by her. The appellant-writ petitioner filed the Writ Petition questioning the interference by the respondents, with her peaceful possession and enjoyment of the subject land, as illegal and without jurisdiction. She claimed to have purchased the subject property by way of a registered sale deed executed in the year 2012 from her vendor who, in turn, is said to have purchased the subject land by way of a registered sale deed in the year 1977. The appellant-writ petitioner sought permission to construct a shed to protect her property of an extent of 15 guntas of land which is bounded on two sides by a road.

On the ground that the respondents were interfering with her possession, she filed the writ petition. A counter affidavit was filed therein by the respondents contending that the subject land was assigned land, and was prohibited from alienation under the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977 (for short "Act 9 of 1977"). The learned Single Judge observed, in our view rightly, that, even if that be so, the remedy of the respondents was only to take action in accordance with the provisions of Act 9 of 1977, and the Rules made thereunder, which provides for a notice being issued and an opportunity being afforded of being heard to both the assignee and the transferee of the subject land. The learned Single Judge directed the

appellant-writ petitioner to maintain status-quo, while granting liberty to the respondents to take action in accordance with law.

Sri S. Rahul Reddy, learned counsel for the appellant-writ petitioner, would contend, not without justification, that, having directed the respondents not to interfere with the appellant's possession without following the procedure prescribed under Act 9 of 1977 and the Rules made thereunder, the learned Single Judge had erred in directing maintenance of status-quo; as a result, the appellant-writ petitioner would be disabled, for all times to come, from raising any construction on the subject land; and to the limited extent, the learned Single Judge directed maintenance of status-quo, the order under appeal must be set aside.

On the other hand, learned Government Pleader for Revenue would submit that, since the subject land is assigned land, its alienation is illegal; Section 3 of Act 9 of 1977 stipulates that such alienation is void; and the learned Single Judge was justified in directing maintenance of status-quo, more so as the respondents have already taken possession of the subject land on 11th April, 2015.

The fact that no notice, as required under Rule 3 of the Rules made under Act 9 of 1977, was issued to the appellant-writ petitioner is not in dispute. As the procedure, prescribed in the Rules made under Act 9 of 1977, has not been followed, the action of the respondents in taking forcible possession of the subject land is illegal. To the limited extent the appellant-writ petitioner was forcibly dispossessed of the subject land, we are satisfied that the order of status-quo cannot be construed as depriving them of their right to retain possession of the subject land. Larger public interest would be adequately safeguarded if, while permitting the appellant-writ petitioner to retain possession of the subject land, she is directed not to raise any construction, or change

the nature of the land, for a period of four months from today. The respondents shall, with utmost expedition and in any event not later than three months from today, issue notice to the appellant-writ petitioner, give her an opportunity of being heard, and thereafter pass an order in accordance with law. Needless to state that failure of the respondents, to initiate action within the aforesaid period of three months, would enable the appellant-writ petitioner thereafter to deal with the subject land, as she considers appropriate.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

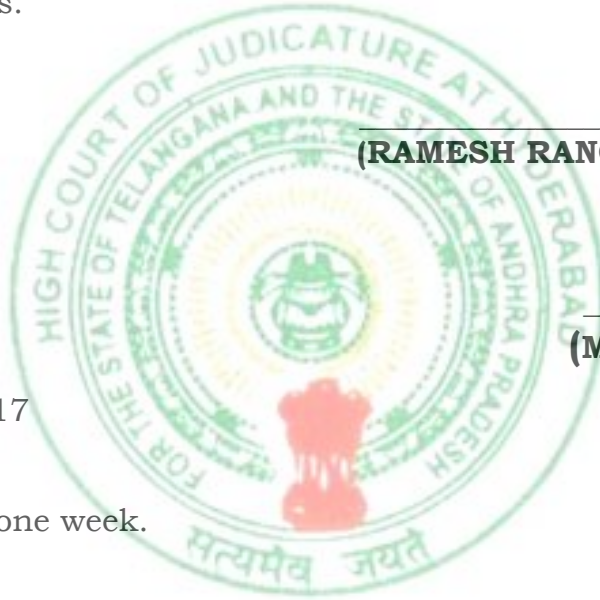
5th October, 2017

Note:

Furnish c.c. in one week.

b/o

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