

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

WRIT APPEAL No.992 of 2018

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

The appeal arises out of an order passed by the learned Judge allowing the Writ Petition filed by the respondents directing the appellants not to interfere with the alleged possession and enjoyment of a piece and parcel of the land by the respondents.

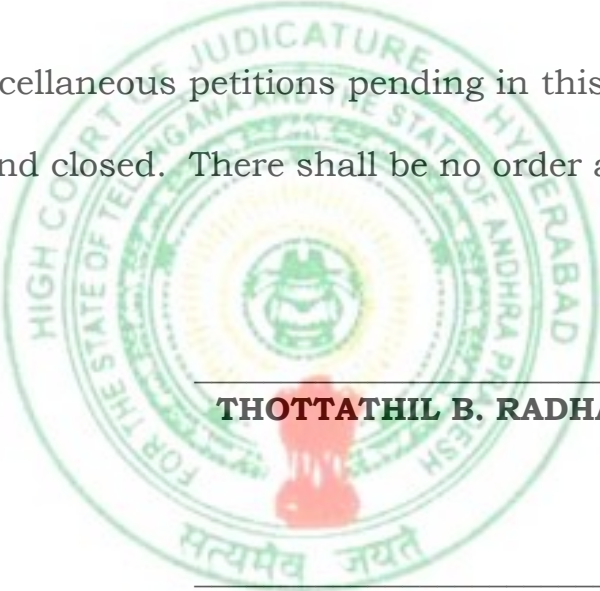
Heard the learned Government Pleader for Revenue (AP). Sri Ravi Kondaveeti, learned counsel, takes notice for the respondents.

The writ petitioners filed W.P.No.22502 of 2007 challenging the action of the appellants in interfering with the alleged possession of the lands in Survey No.86/1 situated at Machavaram Village, Kodur Mandal, Krishna District, without following due process of law. The writ petitioners claimed title to the land under certain documents and also claimed to be in possession. But, the Government filed counter affidavit contending that the Government is in possession of the land and the land is in the nature of a Gramakantam land. However, the learned Judge allowed the Writ Petition on the ground that merely because the land in Survey No.86/1 is classified as Gramakantam, it cannot be construed as belonging to the Government. But, we do not know how a prohibitive order in

the nature of permanent injunction can be granted in the Writ Petition, when the question of possession is in dispute. From the affidavits and counter affidavits, it cannot be found out as to who is in possession of the immovable property. The appropriate remedy for the writ petitioners is only to go before the civil Court and not to invoke the jurisdiction of this Court.

The Writ Appeal is allowed and the order of the learned Judge is set aside. It will be open to the writ petitioners to go to civil Court and work out their remedies.

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



THOTTATHIL B. RADHAKRISHNAN, CJ

V.RAMASUBRAMANIAN, J

24.07.2018
vs/pln