

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION (PIL) No.185 OF 2018
AND
WRIT APPEAL No.922 OF 2018

COMMON JUDGMENT: (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

We have heard learned counsel for the appellant in W.A.No.922 of 2018, who is the 18th respondent in W.P.No.23061 of 2018 and learned counsel for the official respondents.

2. The Writ Appeal No.922 of 2018 is against the order passed by the learned single Judge on 05.07.2018 in I.A.No.1 of 2018 in W.P.No.23061 of 2018.

3. The Writ Petition (PIL) No.185 of 2018 is filed challenging the inaction of the official respondents in preventing the 10th respondent from unauthorized erection of statue of Lord Sri Anjaneyaswamy on public place situated in Survey No.193/1 of Kapra Village, Inavilli Mandal, East Godavari District, Andhra Pradesh.

4. We take cognizance of the fact that the Writ Appeal is against the interlocutory order. Nonetheless, we are of the view that the said order has stalled inauguration and offering prayers in connection with the statue, which is installed, allegedly, without due permission and on Government land.

5. The materials on record indicate that the permission that was ultimately granted and which became the subject matter of the writ petition is dependent on resolution, dated 09.02.2017 of Kapra Gram Panchayat. This is based on an application, dated 16.12.2016. Those

proceedings indicate that there was a plan and specification, dated 31.05.1985. We have mentioned this herein only because we have noticed that the admitted fact situation is that Lord Anjaneyaswamy Statue has already been installed. We infer this from the nature of the interlocutory order issued by the learned single Judge, which is to the effect that there shall be no inauguration or offering of prayers to be allowed to the said statue.

6. The premise on which the learned single Judge has issued the impugned interlocutory order is that the permission issued by the fourth respondent on 09.02.2017 does not even specifically mention the identity of the property, where the proposed statue of Lord Anjaneyaswamy is to be located. However, it is crystal clear that the statue of Lord Anjaneyaswamy has been installed. The question will be as to the identity of the land on which it is installed. Therefore, the balance of convenience would tilt in favour of permitting prayers, offerings etc., to be carried out in connection with the said deity in accordance with the requirements of practice of religion by the people. This would be without prejudice to the right of the State Government or Gram Panchayat or any other Authority to insist that the statue shall be removed if it is found that its installation is in conflict with the laws.

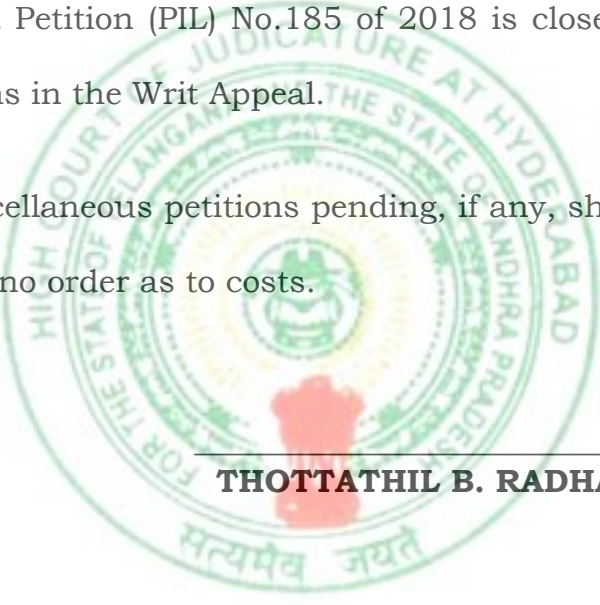
7. Therefore, in modification of the impugned order of the learned single Judge, the Writ Appeal is ordered directing that the installation of the statue of Lord Anjaneyaswamy in the premises concerned and its inauguration and offerings shall be without prejudice to further proceedings before the learned single Judge in the writ petition and would be treated as if no equities would work in favour of the 18th respondent in the Writ Appeal or any other person, who has installed

the said statue merely on account of this appellate order. It would be open to the learned single Judge, at the final disposal of the writ petition, to pass such orders as may be called for, in accordance with law.

8. The Writ Appeal is ordered accordingly. However, if the 18th respondent and all persons claiming under him are prohibited from carrying out any further construction activity in the premises in question until disposal of the writ petition, from which this Writ Appeal arises.

9. The Writ Petition (PIL) No.185 of 2018 is closed in view of the above directions in the Writ Appeal.

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



THOTTATHIL B. RADHAKRISHNAN, CJ

RAMESH RANGANATHAN, J

10.07.2018
vs/pln