

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

WRIT APPEAL No.1351 of 2016

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

When this matter was listed yesterday, respondent No.1/writ petitioner was not present. We therefore heard the learned counsel for the appellant and have minuted the following after perusing the records and considering the legal contentions that would be available on both sides. It is as follows:

“None appears for the respondents.

We have heard the learned counsel for the appellant, who stands with the leave having been granted by this Court to institute the appeal noticing that the appellant was a proper party to the writ petition.

Going through the materials on record, we see that the assertion of the first respondent – writ petitioner is that she is in possession of the land in question. The appellant also asserts possession over the property. Therefore, if the first respondent herein were to succeed to assert her possession, that cannot be had by merely obtaining the measurements of the property and fixing the boundaries, as a result of any survey. We are, therefore, inclined to take the view that this matter has to rest at the stage where the writ petition was instituted and the writ petitioner has to be relegated to the legal remedy, if any, available to her before the appropriate Civil Court. However, since the respondents are not represented, we adjourn the matter for further consideration.”

Today, when the matter is taken up, there is no appearance for respondent No.1/writ petitioner. We do not find our way to take a different view from what has been stated in the order quoted above.

Accordingly, we vacate the impugned order and leave the writ petitioner with liberty to seek such remedy, as may be available to her, from the jurisdictional Civil Court.

This Writ Appeal is ordered accordingly.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 12.07.2018

RAMESH RANGANATHAN, J

kvni/vv

