

**HON'BLE THE CHIEF JUSTICE
THOTTATHIL B. RADHAKRISHNAN**

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL No.1305 OF 2018

JUDGMENT (ORAL): (Per Hon'ble The Chief Justice Thottathil B. Radhakrishnan)

We have heard learned counsel for the appellant and the learned counsel for the contesting non-official respondent.

2. The appellant filed an application under Section 450 of the Greater Hyderabad Municipal Corporation Act, 1955; hereinafter referred to as "GHMC Act"; before the Commissioner of Greater Hyderabad Municipal Corporation seeking an order that the building permit granted to the non-official respondent be revoked. Alleging that the Commissioner has failed in his statutory and public duty to act on that application, the appellant filed the writ petition from which this appeal arises. The learned single Judge noticed that, as between the parties, there is a civil appeal pending before this Court and a civil suit was instituted by the appellant seeking declaration of his title to the particular property, which is scheduled to the plaint in that suit. The learned single Judge noticed that the said relief is intricately connected with the construction of the building in terms of the building permit. On this factual premise, it was also noticed that an earlier order issued by this Court was carried to the Apex Court and Their Lordships had directed expeditious disposal of the first appeal of this Court.

3. Taking into consideration all the aforesaid facts and factors, the learned single Judge declined to exercise the discretionary jurisdiction under

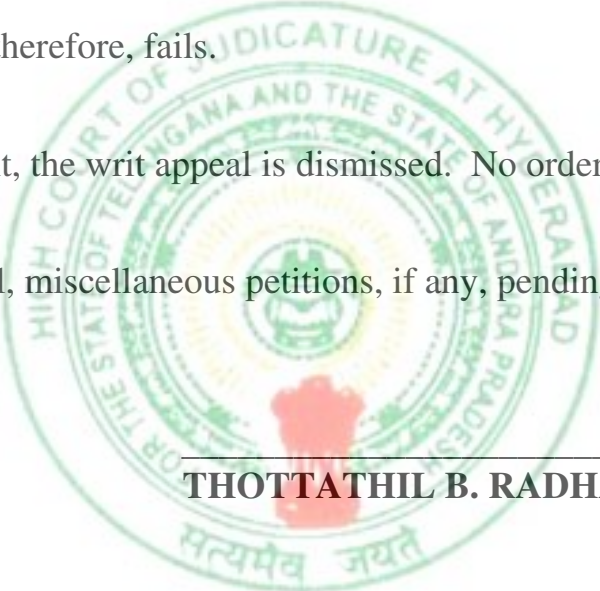
Article 226 of the Constitution of India by issuing a Mandamus as sought for. The impugned judgment is issued leaving the parties to be governed by the decision in the civil appellate jurisdiction or the civil suit, as the case may be, and also to preserve for themselves all the remedies which would be available to them in law otherwise.

4. Having heard the learned counsel for the appellant, we do not see that there is jurisdictional infirmity or illegality committed by the learned single Judge in the matter of exercise of discretion and consequential refusal of issuance of Writ in the nature of Mandamus as sought for by the appellant.

The writ appeal, therefore, fails.

5. In the result, the writ appeal is dismissed. No order as to costs.

As a sequel, miscellaneous petitions, if any, pending stand closed.



THOTTATHIL B. RADHAKRISHNAN, CJ

S.V. BHATT, J

October 24, 2018
MRR