

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL MISCELLANEOUS APPEAL NO.1031 OF 2018

JUDGMENT: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri R.Raghunandan, learned Senior Counsel for the appellants, and Sri C.Raghu, learned counsel for the respondent-plaintiff.

On 01.10.2018, the Court below adjourned hearing of the interlocutory application to 30.10.2018 after recording that an advocate had entered appearance for respondents 1 and 2, and a counter affidavit was filed on their behalf. The interim order passed earlier on 14.09.2018, which was in force till 01.10.2018, was not extended.

Two days thereafter on 03.10.2018, the I.A. was advanced by the Court below, *suo motu*, holding that it was brought to his notice by the Chief Ministerial Officer and the petitioners' counsel that an interim order extension petition had been filed on 01.10.2018. The interim order passed earlier on 14.09.2018 was extended till 30.10.2018 without even putting the counsel for the appellants- respondents 1 and 2 on notice, without giving them an opportunity of being heard, and without even examining the contents of the counter affidavit filed by the appellants-respondents 1 and 2.

There does not appear to be any justification in advancing an interlocutory application, that too before the extension petition was even numbered, and without putting the appellants-respondents 1 and 2 on notice regarding advancement of the application. We

find considerable force in the submission of Sri R.Raghunandan, learned Senior Counsel appearing on behalf of the appellants, that, though the order dated 03.10.2018 does not even record the application for extension having been placed before the Court, yet the earlier interim order was illegally extended till 30.10.2018.

The next date of hearing fixed by the Court below, on 30.10.2018, is just six days away. While contending that judicial restraint, in interfering with such orders, would erode public confidence in the judicial institutions itself, and the order dated 03.10.2018 should be set aside, Sri R.Raghunandan, learned Senior Counsel appearing on behalf of the appellants, would submit that, till 30.10.2018, the appellants would not raise any construction on the subject land.

While the manner in which the Court below had, *suo motu*, advanced the matter, and had granted extension of the interim order without even putting the counsel for the appellants-respondents 1 and 2 on notice, without giving them an opportunity of being heard, and without even taking note of the contents of the counter affidavits which are placed on record, is disconcerting, we refrain from saying anything more on the conduct of the officer, as it may adversely effect his future career prospects. Suffice it to observe that care and caution should be exercised in advancing matters *suo motu*; and extension of the interim order passed earlier, after *suo motu* advancing the interlocutory application without the counsel for appellants-respondents 1 and 2 even being put on notice and without their being given an opportunity of being heard, is improper.

Recording the submission of Sri R.Raghunandan, learned Senior Counsel appearing on behalf of the appellant-respondents 1 and 2, that no construction would be raised on the subject land till 30.10.2018, the order passed by the Court below on 03.10.2018 is set aside. The Court below shall hear I.A.No.867 of 2018 in O.S.No.1069 of 2018 on the file of the III Additional District Judge, Ranga Reddy District at L.B.Nagar on 30.10.2018, and pass a reasoned order thereupon in accordance with law.

The Civil Miscellaneous Appeal is allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.



(RAMESH RANGANATHAN, J)

(D.V.S.S.SOMAYAJULU, J)

24th October 2018
RRB