

**THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE S.V.BHATT**

WRIT APPEAL No.1387 of 2018

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

We have heard the learned Senior Counsel for the appellants and the learned Standing Counsel for the Hyderabad Metropolitan Development Authority, hereinafter referred to as 'HMDA'.

2. This writ appeal is against an interlocutory order dated 10.10.2018 passed by the learned single Judge in I.A.No.2 of 2018 in W.P.M.P.No.46700 of 2017 in W.P.No.37602 of 2017. Through that order, which gives reasons for its issuance, the learned single Judge vacated the earlier interim order granted on 09.11.2017 and the official respondents in the writ petition were permitted to lay the road as proposed.

3. Though, at the stage of consideration of this writ appeal for admission, there was a direction to maintain *status quo* as on 11.10.2018 until consideration of this appeal on the following day, that interim order was not extended thereafter.

4. The passage of time has brought the required activity being carried out by the official respondents. Thereby the writ appellants cannot claim to be in possession of that parcel of the land atleast from that date.

5. The learned Senior Counsel for the appellants, referring to different materials on record and, in particular, the counter-affidavit filed on behalf of the HMDA in the writ petition, points out that what is now sought to be agitated is something which the HMDA could not

have raised and that the HMDA cannot raise any issue relating to the registered document under which the appellants claim.

6. The HMDA has contended before the learned single Judge through its counter-affidavit that the plea of the writ appellants-writ petitioners that they are the owners and possessors of the land on the ground of the registered sale deed is not acceptable, since the transfer of land in their favour has no legal sanctity and it is not binding on the State which, according to the HMDA, has paramount title to the property. It also pleaded that proceedings are pending with the State Government touching the claim of title over lands involved in certain survey numbers and that is a matter on which the Government has to take a final decision.

7. In terms of Article 300A of the Constitution of India, it is argued on behalf of the writ appellants that the primary eligibility is to be protected from dispossession of the land, since deprivation of land otherwise than following due process of law is impermissible on the basis of the said constitutional injunctions. It is contended that even in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, hereinafter referred to as 'the Act', there could not have been any dispossession without offering or depositing the amount, which would represent the compensation, and only upon an order have been passed, could that have been done.

8. The issue in hand ultimately would snowball into the eligibility of the writ appellants to insist either for compensation or for other relief relatable to the plea of unlawful dispossession by the HMDA either by itself or on behalf of the State. The appellants trump card,

at this point of time, is essentially the ROR entries which have been made in their favour or their predecessors' favour and which form the foundation for their claim that they would be eligible to be protected against dispossession otherwise than in conformity with the provisions of the Act.

9. We have called for the relevant files from the District Collector, since the learned Standing Counsel for the HMDA had pointed out that it is on the statements of the District Collector that the HMDA had taken the stand that the particular piece of land belongs to the Government. We have perused those records. We are of the considered view that we have to dissuade ourselves from expressing anything on the contents of that file or records, having particular regard to the fact that the issues raised by the writ appellants, who are the writ petitioners, could be considered, in accordance with law, by the learned single Judge in the writ petition and the ultimate relief in the writ petition can be moulded also taking into consideration the factors and issues that have occurred after the institution of the writ petition. We are also of the view that the matter pending with the Government, if found relevant for adjudication of the writ petition; it will be open to the learned single Judge to direct impleadment of the appropriate authority in Government, or for the writ petitioners to apply for such impleadment.

10. We see that the impugned interlocutory order has been delivered by the learned single Judge on due and fair application of mind to the facts and circumstances of the case and materials on record. The learned single Judge has also envisaged the due course that ought to be followed in discretionary jurisdiction at that end. Having regard to the statutory and constitutional provisions, having a

bearing on the issue on hand, we do not find grounds to interfere with the impugned interlocutory order through this intra-court appeal under the Letters Patent. We hasten to clarify that we have not expressed any opinion on the rival contentions. The learned single Judge will be within jurisdiction to decide on all matters, which are found required to be adjudicated at that end, in accordance with law.

11. In the result, subject to the aforesaid, the Writ Appeal is dismissed.

12. We record the submission of the learned Senior Counsel for the writ appellants that his clients may be given liberty to make mention before the learned single Judge for an out of turn and expeditious further hearing of the matter pending at that end. We are sure that the learned single Judge will sympathetically consider such request, if made.

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

S.V.BHATT, J

19.11.2018
JSU