

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

WRIT APPEAL No.1480 of 2018

JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Mr.Vedula Venkata Ramana, learned senior counsel for appellants, Mr.P.Bhaskara Mohan for respondents 1 to 3 and the learned Government Pleader for Mines and Geology.

Respondent Nos.4 and 5 in the writ petition are the appellants. Respondents 1 to 3 herein are the writ petitioners and they have in substance challenged Proceedings No.9526/R3/2016 dated 28.11.2016 read with the grant order covered by Proceedings No.2036/Q/2016 dated 25.01.2017 granting quarry lease in favour of appellants herein for an extent of 24.86 Hectares in Sy.No.323/P of Anantha Sagar Village, Chinnakoduru Mandal, Sddipet District and Proceedings No.9527/R3/2016 dated 21.01.2017 and subsequent grant Proceedings No.2035/ML/2016 dated 17.03.2017 granting quarry lease in an extent of 24.34 Hectares in Sy.No.322/P, 323/P of Anantha Sagar Village in favour of 5th respondent, as illegal, arbitrary, unconstitutional etc.

The petitioners claim right, title and possession to various extents of small plots purchased from the owners through registered sale deeds. Respondent Nos.1 to 3, briefly stated, complain that the property purchased by respondents 1 to 3 is a private property and is now overlapping with the grant order referred to above in favour of appellants herein. The respondents pray for setting aside these proceedings as well.

The parties have filed pleadings and from the order under appeal, it appears to us that the learned Single Judge, having regard to the nature of controversy, necessity to identify the properties covered by respective grant orders and the property claimed by respondent 1 to 3 and accepting the prayer made by respondents 1 to 3 for joint survey, passed the following order:

“On the other hand, it is submitted by the learned Government Pleader for Mines and Geology that the authorities will hold joint survey of the subject land and fix the boundaries.

Recording the said statements, the writ petition is disposed of, directing the respondent authorities to undertake survey of the subject properties with the assistance of Revenue Department and Survey and Land Records Department, after issuing notice to all the stakeholders including the petitioners and the unofficial respondents herein and to fix the boundaries pertaining to the subject area as expeditiously as possible, preferably within a period of six (06) months from the date of receipt of a copy of this order and to take further action, if warranted. No order as to costs”.

Mr.Venkata Ramana contends that the objections raised by the appellants are not considered and that the identification of property, survey etc., is a matter for consideration and decision by a competent civil Court in a suit filed for comprehensive reliefs. According to him, the objections raised in the counter affidavit are not considered at all. Therefore, the order under appeal fails and ought to be set aside. The submission of learned senior counsel is merely referred to and warrants rejection for the simple reason that the learned Single Judge did not take up the challenge of respondents 1 to 3 either on merits, for the consideration of challenge to the grant proceedings is dependant on identification

of property now granted in favour of appellants as a quarry lease and the property claimed by respondents 1 to 3 through registered sale deeds. The basic fact, if is determined firstly further litigation in this behalf could be avoided and secondly there is overlapping of right and interest through proceedings impugned in the writ petition. The same is a matter for decision in an appropriate proceeding taken up by the parties. The various circulars issued by the Government in the matters of survey are clear to pin point the respective areas in accordance with filed maps, village maps etc. The non-consideration of any ground said to have been canvassed but not considered by the learned Single Judge is not a ground for challenge by way of writ appeal. The counsel who appeared before the learned Single Judge is not asserting by way of affidavit to consider this aspect of the matter. The order under appeal does not warrant interference under the facts and circumstances of the case.

The writ appeal fails and is, accordingly, dismissed. No order as to costs.

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

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

31st December, 2018
Lrkm