

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

WRIT APPEAL No.1635 OF 2018

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

Heard Mr.P.Venugopal, Mr.C.V.Mohan Reddy and Mr.S.Niranjan Reddy, learned senior counsel for the parties.

Writ petitioners are the appellants. The appellants filed W.P.No.39304 of 2018 for Mandamus declaring the action of respondents 1 and 2 therein in allowing respondents 3 to 5 therein to proceed with construction in terms of revoked building permit No.22275/HO/HZ/Cir-11-2013 dated 15.04.2013 and further granting occupancy certificate dated 26.07.2018, as illegal etc.

On 01.11.2018, the learned Single Judge, upon hearing the counsel who appeared before him, passed the following order:

"Post on 12.11.2018 on top of the Adjourned Motion List along with W.P.No.13073 of 2018.

Meanwhile, the respondents including the G.H.M.C shall file counter. In view of the undertaking given by the learned Senior Counsel Sri S.Niranjan Reddy, appearing for the respondents, no new shops shall be allowed to be opened from today till 12.11.2018 in Block-A to E of the subject premises. But interior works in the shops which are already allotted can go on".

Respondents 1 and 2 herein filed I.A.No.3 of 2018 for the relief as follows:

"Petition under Section 151 of CPC praying that in the circumstances stated in the petition and the affidavit filed in writ petition the High Court may be pleased to modify the order dt.01.11.2018 and permit the tenants who

have already entered into lease agreements to open the stores for the undertaking period pending disposal of W.P.No.39304 of 2018 on the file of the High Court”.

On 02.11.2018, the learned Single Judge passed the order in I.A.No.3 of 2018 and the operative portion reads thus:

“Having regard to the above and since no loss is caused to the writ petitioners, even in case if the writ petitioner ultimately succeeds in the writ petitions and with a view to protect the interest of the persons, who intend to enter into fresh lease agreements for conducting business therein, the request of Sri S.Niranjan Reddy, in permitting those persons, who have already entered into lease agreements/ registrations and in cases where possession is already delivered, for opening their shops/ screens, can be accepted. The respondents shall inform the shop owners about the pendency of the writ petition before this Court and that the shop owners, who are going to open the shops pursuant to the orders passed herein shall not claim any equities thereafter.”

Accordingly, I.A.No.3 of 2018 is ordered and the earlier order dated 01.11.2018 stands modified”.

Hence, writ appeal at the instance of writ petitioners.

We have perused all the interlocutory orders to which our attention has been drawn by all the learned counsel appearing for the parties.

Prima facie, we are of the view that the interlocutory orders have limited effect in point of time and likewise, the clarification which is granted has limited life span to operate. The writ petition is still pending. Therefore, we are persuaded not to enquire into the rival claims of the parties in the instant writ appeal.

By leaving all contentions open for consideration, as and when they are raised before the learned Single Judge, the writ appeal is 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

15th November, 2018
Lrkm

