

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

WRIT APPEAL No.1653 OF 2018

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

Heard both sides.

The third party to W.P.No.43394 of 2018 is the appellant. The appeal is directed against an interlocutory order in I.A.No.1 of 2018. This Court in normal circumstances does not entertain a writ appeal against either an interlocutory order or an ad-interim order or arrangement made by the Single Judge during the pendency of the writ petition. In the case on hand, the following circumstances are noted for interfering with the order under appeal.

Respondent No.1 filed W.P.No.43394 of 2018 for Mandamus questioning endorsement No.B/1638/2018 dated 20.11.2018 of Tahsildar/3rd respondent herein as illegal, arbitrary and amounts to refusing to entertain the jurisdiction conferred on him. At this juncture, we may excerpt the operative portion of endorsement dated 20.11.2018 which reads as follows:

“Basing on the above proposals, the Joint Collector, RR District has taken up the case and passed interim orders by suspending the orders passed by the then Tahsildar of this office vide Procg No.D/181/2018 dated 14.02.2018 on 22.02.2018 in case No.D1/831/2018, subsequently the Hon'ble High Court has granted stay of all further proceedings in case No.D1/831/2018 dated 22.02.2018 on the file of the District Collector, RR District in IA No.1 of 2018 in WP.No.28878 of 2018 and IA No.2 of 2018 in WP No.6977 of 2018 and the above case is pending for adjudication.

In view of the above, request of the petitioner for incorporate his name in revenue records against the Sy.No.494/1 extent Ac.7.01 gts situated at Manchirevula Village may not be considered at this juncture, since the final orders in the matter are yet to be delivered. Hence the petition filed by the petitioner on 25.10.2018 is considered and the same is hereby rejected”.

In other words, the prayer of 1st respondent is negated by 3rd respondent. The writ petition is filed challenging the order dated 20.11.2018 and is admitted. Through I.A.No.1 of 2018, the following prayer is made:

“.... to direct respondent No.2 to restore name of the petitioner in revenue records in respect of land bearing survey No.494/A admeasuring Ac.7.01 guntas situated in Manchirevula Village, Gandipet Mandal, Ranga Reddy District as per law and as adjudicated by respondent no 2 and recorded as per Weblist dated 14.2.2018 implementing the proceedings No.D/181/2017 dated 14.02. 2018 and other earlier orders passed under the RoR Act in the interest of justice and pass...”

The order under appeal reads thus:

“Interim direction”

The counsel for appellant contends that through the order under appeal, the writ petition for all purposes is allowed, more particularly without impleading the parties who are consistently participating in various cases between the parties. Since we are proposing to set aside the order under appeal and request the learned Single Judge to hear the parties and pass orders, we do not propose to refer to the merits canvassed by both sides. The order under appeal is set aside on the short ground that the interim direction at this stage without notice or hearing affected parties if is considered, such interim order amounts to setting aside the order in the writ

petition and directing 3rd respondent to restore the entries in favour of 1st respondent. Such course is impermissible.

Hence, the order under appeal is set aside. The Registry is directed to list I.A.No.1 of 2018 before the Bench hearing the matters on 24.12.2018. The right of appellant to seek impleadment is preserved.

The writ appeal is, accordingly, ordered. No order as to costs.

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



THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

13th December, 2018

Issue CC forthwith.

B/o *Lrkm*