

**THE HONOURABLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY
WRIT APPEAL No.15 OF 2019**

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

This Writ Appeal is filed by the 9th respondent in Writ Petition No.40021 of 2018. It is a Private Limited Company.

2. The Writ Petitioner sought a declaration that the proceedings issued by the 1st respondent-Greater Hyderabad Municipal Corporation, Hyderabad, (GHMC) on 01.11.2018 is illegal, arbitrary and unreasonable. A further direction was also sought for against GHMC not to proceed in any manner in furtherance of those proceedings by interfering with the construction being carried out by the writ petitioner as per permit No.1/C20/14638/2018, dated 09.09.2018. The learned single Judge has granted that relief.

3. We have heard the learned counsel for the appellant-9th respondent in the Writ Petition. He points out the genesis of the litigation and the controversy between the parties traceable to the rival titles projected by the parties to this litigation. However, we are of the firm and considered opinion that such issues do not generate grounds sufficient enough to further adjudicate this Writ Appeal for the simple reason that the plea that the 9th respondent before the learned Single Judge had included the undisputed position that the Occupancy Rights Certificate issued in its favour vide proceedings dated 03.09.1998 was set aside by the Joint Collector as per proceedings dated 03.05.2011

and those proceedings of the Joint Collector is pending consideration in Writ Petition No.25704 of 2011 filed by the 9th respondent-writ appellant. The 9th respondent-writ appellant also filed Civil Revision Petition No.4242 of 2018 against B. Saraswathi and others to set aside the Occupancy Rights Certificate issued vide proceedings dated 30.12.2017. These undisputed facts are available even from paragraph No.6 of the impugned order of the learned Single Judge.

4. In the aforesaid view of the matter, the eligibility of the writ petitioner to continue with the construction activity as directed by the learned Single Judge cannot now set at naught at the instance of the appellant. This is because the Occupancy Rights Certificate issued in favour of the appellant stands set aside, rightly or wrongly, by the jurisdictional Joint Collector and that issue is the subject matter of Writ Petition No.25704 of 2011. While we say so, we clarify that we do not express anything on the rival contentions as between the private parties and all the issues in Writ Petition No.25704 of 2011 and Civil Revision Petition No.4242 of 2018 will stand open for consideration notwithstanding anything that we stated herein or what has been stated in the order of the learned Single Judge.

5. In the light of the aforestated fact situation, all that we need to do is to dismiss the Writ Appeal as groundless. In the light of what is stated above, it is left open for the parties to work out their remedies in either Writ Petition No.25704 of 2011 or Civil Revision Petition No.4242 of 2018 or any appropriate proceedings in requisite jurisdiction, in accordance with law. We also clarify that the

complaint, which was directed to be disposed of by the Division Bench of this Court, as per the order dated 10.01.2019 in I.A.No.1 of 2019, will continue to be handled in accordance with law by the 4th respondent in obedience to the interlocutory order. The consideration of that complaint would be carried out to its logical end leaving all issues open for the parties. We leave all issues open for the parties to agitate even in relation to the decisions that may be taken by the 4th respondent on the complaint dated 03.05.2018 referred to in I.A.No.1 of 2019.

6. Though the learned counsel for the appellant wondered us to hear on the question of title of the writ petitioner, we are of the view that such question does not arise for decision in this Writ Appeal since even if the writ petitioner's title is dislodged by the 9th respondent-writ appellant that would not save the situation so long as the 9th respondent's writ petition i.e., Writ Petition No.25704 of 2011 is pending against the adverse orders issued against it.

7. In the result, this Writ Appeal is dismissed, without prejudice to what is stated above.

As a sequel thereto, Miscellaneous Applications, if any pending, in the writ appeal stand dismissed.

THOTTATHIL B. RADHAKRISHNAN, CJ

January 24, 2019.

A. RAJASHEKER REDDY, J

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