

THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT APPEAL No.134 of 2019

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

Having heard the learned counsel for the appellant and the learned counsel appearing for the contesting respondent, we see that this is one of those situations which could normally arise if parties try to get orders either from the civil Courts or from the writ Courts without impleading the necessary parties.

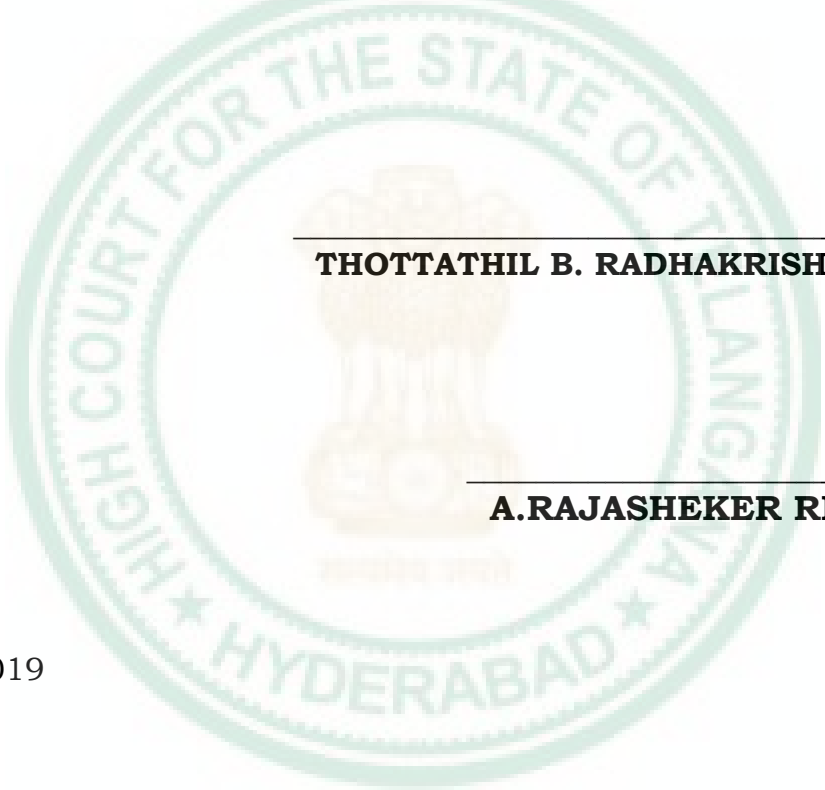
2. The appellant in this Writ Appeal sought the relief from the civil Court. The Writ Petition was filed alleging that the writ petitioner could not restrain from continuing with the construction. The learned single Judge has directed the trial Judge to decide on the application; in the sense, by directing the official respondents in that suit to move the civil Court to vacate the said order or to move the appellate or revisional forum. The writ petitioner was also given liberty to participate in the proceedings.

3. Hearing the learned counsel for the appellant and the learned counsel for the unofficial respondent, we see that the course adopted by the learned single Judge cannot be faulted with, except to say that it would have been only appropriate for the civil Court to decide the matter untrammelled by any finding or observation by the High Court in the writ proceedings, which may have a bearing on the rival contentions of the parties before

the civil Court. We clarify the impugned order to the aforesaid effect and direct that the impugned order of the learned single Judge will be effectuated by the civil Court concerned accordingly.

4. The order of the learned single Judge is modified to the aforesaid extent and the Writ Appeal is ordered accordingly.

The miscellaneous petitions pending in this appeal, if any, shall stand closed. There shall be no order as to costs.



THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

25.02.2019
vs