

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.3259 of 2019

ORDER:

The prayer of the petitioners in this case reads as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of *Mandamus* declaring the proceedings No.B/333/2018 dt 08.02.2019 of the 2nd respondent as highly illegal, arbitrary, unjust, void and consequently set aside the same pending disposal of the appeal before the 3rd respondent preferred by the petitioner and to pass such other order or orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case.”

The record reflects that, aggrieved by the order dated 08.02.2019 passed by the Deputy Collector and Tahsildar, Serilingampally Mandal, Ranga Reddy District, under Section 6 of the Telangana Land Encroachment Act, 1905, the petitioners filed a statutory appeal under Section 10 thereof before the Special Grade Deputy Collector and Revenue Divisional Officer, Rajendranagar, which was received on 16.02.2019. Therein the petitioners also filed a stay application which is yet to be considered by the appellate authority.

The grievance of the petitioners presently is that notwithstanding the pendency of the appeal and the stay application filed therein, the revenue authorities are seeking to give effect to the order dated 08.02.2019 which is under appeal.

It is not open to the revenue authorities to render the statutory appellate remedy provided to the petitioners redundant by

giving effect to the primary order even before expiry of limitation for filing of an appeal.

In the case on hand, the record reflects that the appeal was filed promptly by the petitioners. It is for the appellate authority to consider the said appeal and the stay application filed therein on merits and pass appropriate orders. Without allowing the appellate authority an opportunity to do so, the revenue authorities cannot act upon the order against which an appeal has been filed.

The Writ Petition is accordingly disposed of directing the respondents not to give effect to or act upon or take any steps pursuant to the order dated 08.02.2019 passed by the Deputy Collector and Tahsildar, Serilingampally Mandal, Ranga Reddy District, pending consideration of the stay application filed by the petitioners in their appeal filed against the said order, which was received by the Special Grade Deputy Collector and Revenue Divisional Officer, Rajendranagar, on 16.02.2019.

It is made clear that this Court has not gone into the merits of the matter and it is for the appellate authority to consider the stay application on its own merits and in accordance with law.

Pending Miscellaneous Petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

19th February, 2019

Note:

Issue CC in two days.

B/o

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