

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

WRIT APPEAL No.192 OF 2019

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

We have heard the learned Senior Counsel for the appellant and we have perused the impugned interlocutory order issued by the learned Single Judge in the Writ Petition filed by the private respondents herein.

2. This being an intra court appeal under Letters Patent challenging an interlocutory order issued in the course of the Writ Petition, we need to be guided by the principles which govern such appeals. We stand cautioned that it is inappropriate for us to visit the discretionary order issued by the learned Single Judge, unless we are sure that it is palpably perverse or wholly unavailable on the materials available on record.

3. Hearing the learned Senior Counsel for the appellant with reference to the different materials, which were placed before the learned Single Judge, we see that the impugned interlocutory order is issued by the learned Single Judge taking note of certain significant facts and factors. It is also noticed by the learned Single Judge that the impugned action of the officials in the revenue sector apparently would tend to indicate that there is an overstepping of jurisdiction by sitting over an earlier order issued by the Revenue

Divisional Officer of co-equal jurisdiction. We also see that the parties on either side entirely fighting shy to move the appropriate Civil Court to have adjudication of issues, which ought to go to the Civil Court in terms of Section 9 of the Code of Civil Procedure.

4. We see that the impugned interlocutory order issued by the learned Single Judge is not vitiated by non-application of mind or non-consideration of materials or it has been issued without stating any reason. We do not find any ground to interfere with the impugned interlocutory order.

5. All the aforesaid apart, we also notice that the learned Single Judge has listed the matter on 26.03.2019 for counters. Obviously, therefore, it will be open to the parties to press for further orders before the learned Single Judge in accordance with law.

6. The Writ Petition is dismissed accordingly.

7. Pending miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

Date: 12.03.2019

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