

**THE HONOURABLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN**

AND

THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION Nos. 29703 OF 2016 AND 6371 OF 2018

COMMON ORDER: (ORAL) (Per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)

On consent of parties through their respective counsel, these writ petitions are considered together in view of the fact that these matters relate to alleged grabbing/encroachment of Acs.29.24 guntas in survey Nos.331/1 and 2, 352, 364 and 365/1 and 2 of Gowdavalli Village, Medchal Mandal, Ranga Reddy District.

2. While W.P.No.29703 of 2016 was pending before this Court, W.P.No.6371 of 2018 was filed challenging a decision of the Lokayukta, which was rendered on 10.10.2017 under the Andhra Pradesh Lokayukta Act, 1983 (for short 'Act') and Andhra Pradesh Lokayukta and Upa Lokayukta (Investigation) Rules, 1984 on a complaint filed in 2016, in relation to the same item of property, which is the subject matter of W.P.No.29703 of 2016.

3. We have heard learned counsel for the writ petitioners and learned counsel for the contesting respondents, who have filed the vacate stay application in view of the interlocutory order dated 27.02.2018 given by this Court at the stage of admission directing that no document shall be registered touching the properties in question.

We have also heard the learned counsel appearing for Lokayukta as well as the learned Government Pleader for Revenue.

4. The sum and substance of the complaint made by the writ petitioners before the Lokayukta was that the official respondents were involved in such activities, as would attract the jurisdiction of the Lokayukta, and such actions attributed to the official respondents in the form of allegations, need to be dealt with by the Lokayukta in terms of the provisions of the Act.

5. Among the material papers furnished by the Lokayukta along with the counter affidavit on its behalf is the enquiry report submitted by the Director (Investigation) with reference No.C.No.958/2016/B1/71 dated 06.10.2017.

6. We have considered the contents of that report, which specifically refers to the allegations made by the complainant before the Lokayukta in the light of the material papers and other records including official records, which have been examined by the Director (Investigation). The Director (Investigation) ultimately concluded on the basis of the materials considered by him that, it is a case where the allegations are “not proved.” Thereafter, the Lokayukta took up the matter, considered it and issued the impugned order dated 10.10.2017, *inter alia*, holding that the clinching documentary evidence, which are public documents, carry with it the presumption as to regularity and propriety of the official acts, as would be deducible from Section 114

of the Evidence Act, 1872. The Lokayukta appreciated the different facts, as are available on the materials, and held that no case is made out.

7. The learned counsel for the writ petitioner pointed out that the Lokayukta erred in jurisdiction inasmuch as it stated that even after querrying with the complainant about evidence to rebut the evidence adduced by the Government, he only reiterated by oral submission, but did not file any document to rebut the evidence on behalf of the Government. We see such a statement in the order of the Lokayukta. The entire material papers appear to have gained attention of the Lokayukta. We say this, particularly, because the enquiry report of the Director (Investigation) was before the Lokayukta and the complainant himself had appeared before the Director (Investigation) and had participated in the proceedings of the Director (Investigation). The enquiry report so generated also taking into consideration the complainant's version.

8. In the aforesaid view of the matter, any further material, which the complainant had placed or wanted to place before the Lokayukta is not of relevance because the jurisdiction and authority of the Lokayukta in terms of the Act is not to sit, as if it is deciding a civil suit between the parties, that too in the realm of fact finding on issues referable to title or possession. It is also not, as if, the Lokayukta is a civil appellate court. This position notwithstanding, the fact of the matter remains that the private respondents, who are

before us, and the transaction in favour of whom or in favour of whose predecessor was apparently impeached before the Lokayukta, were not even made parties before the Lokayukta and even the interlocutory order that was issued by this Court was obtained without impleading them. They were impleaded on their own application and the vacate stay application was filed by them.

9. Examining the materials on record and the quality of the findings of the Lokayukta in the backdrop of the Director's (Investigation) enquiry report dated 06.10.2017, we do not find that the Lokayukta has exceeded its jurisdiction or has failed to exercise jurisdiction. We do not see any ground to visit the order of the Lokayukta in exercise of the authority under Article 226 of the Constitution of India.

10. In view of the substantial allegations as to the non-consideration of allegations regarding the alleged encroachment and land grabbing were subjected to enquiry by the Director (Investigation) of the Lokayukta and the Lokayukta having considered the said matter; which proceedings have been appealed, we do not find any ground to take a different view on the allegations that the officers have not considered the complaints. On the basis of the findings rendered above in relation to W.P.No.6371 of 2018 regarding the Order of the Director (Investigation), we do not see that the reliefs sought for by the petitioners in W.P.No.29703 of 2016 are eligible to be allowed. The writ petitions, therefore, fail.

In the result, these writ petitions are accordingly dismissed. No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any pending, in the writ petitions stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

January 30, 2019.

PV/PLN