

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE ACTING CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT APPEAL No. 327 of 2019

Date: 16.04.2019

Between:

Smt. Namala Shruthi

...Appellant

and

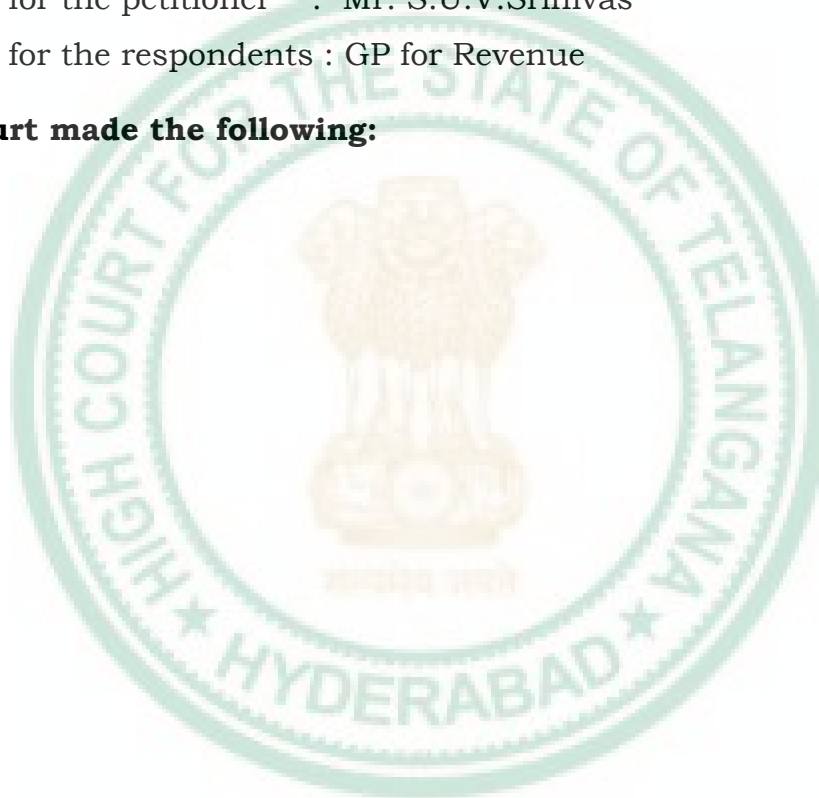
The State of Telangana and others.

...Respondents

Counsel for the petitioner : Mr. S.U.V.Srinivas

Counsel for the respondents : GP for Revenue

The Court made the following:



JUDGMENT: (Per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)

Aggrieved by the dismissal of the writ petition, namely Writ Petition No.2206 of 2019, by order dated 20.02.2019, by a learned Single Judge, the appellant-petitioner has approached this Court.

In Writ Petition No.2206 of 2019, the appellant had made the following prayer before the learned Single Judge:-

"Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent in obstructing the construction activity as well as making attempts to dispossess the petitioner from her land bearing Plot No.149 in Survey No.69 and 70 admeasuring 284 sq. yards or 237.42 sq.mts situated at Telecom Nagar, Gachibowli Village, Serilingampalli Mandal, Ranga Reddy District as illegal and arbitrary and consequently direct the respondents not to interfere with the possession and enjoyment of the petitioner over the said land."

However, the learned Single Judge has noticed the fact that there is a disputed question of fact with regard to the physical location of the property in question. While the appellant-petitioner claimed that her Plot No.149 is situated in Survey Nos.69 and 70 of Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, the respondents claimed that the plot actually falls within Survey No.91 of the said Village. According to the respondents, Survey No.91 happens to be a Government land. It is in these circumstances, that the learned Single Judge concluded that since a disputed question of fact was involved, the writ jurisdiction could not be invoked.

Mr. S.U.V. Srinivas, the learned counsel for the appellant, submits that the appellant is crystal clear that her plot, namely Plot No.149, does fall within Survey Nos.69 and 70 of the said Village. Since the respondents were disturbing her peaceful possession of the property, the appellant was justified in filing the writ petition.

Therefore, the learned Single Judge was unjustified in dismissing the writ petition.

Heard the learned counsel for the appellant and perused the impugned order.

A bare perusal of the impugned order clearly reveals that both the parties disputed the actual location of the plot. As mentioned above, while the appellant claimed that the plot falls within Survey Nos.69 and 70 of the Gachibowli Village, the respondents claimed that the same plot falls within Survey No.91 of the said Village. Since a complicated and disputed question of fact has arisen with regard to the actual placement of the property, obviously the said issue cannot be resolved or adjudicated by the writ court.

Moreover, if the appellant is aggrieved by the disturbance of her peaceful possession of the property, she has an efficacious alternate remedy for injuncting the respondents from disturbing her peaceful possession. Hence, the learned Single Judge was certainly justified in dismissing the writ petition.

For the reasons stated above, this Court does not find any merit in the present appeal; it is hereby dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, ACJ)

(A. RAJASHEKER REDDY, J)

16th April, 2019
JSU

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