

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

WRIT APPEAL No.1708 of 2018

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

This Writ Appeal has come up with a leave having been granted to the appellant, who is a third party to the Writ Petition.

2. The Writ Petition was filed on the allegation that the jurisdictional Police was compelling the writ petitioner and pressuring him to handover land to the complainant in Crime No.180 of 2018 of Balapur Police Station, Rachakonda Commissionerate. However, the complainant in Crime No.180 of 2018 was not made a party to the Writ Petition. It is that complainant who is before us as appellant in this Writ Appeal.

3. When the learned single Judge took up the Writ Petition, learned Government Pleader had placed a copy of the instructions before the learned Judge. It is quoted in the impugned final order issued in the Writ Petition. The instructions given by the Police clearly show that Crime No.180 of 2018 was registered at the instance of the person, who is the appellant in this Writ Appeal. It also shows that O.S.No.1427 of 2010 was pending before the learned Principal Senior Civil Judge, Ranga Reddy District, and that was dismissed on 02.06.2015. That is an item of property in relation to which the criminal case also appears to have been filed.

4. Learned counsel for the writ petitioner, who is opposing this Writ Appeal, points out that the aforesaid suit was filed by the vendors of the writ petitioner and its dismissal may not have any impact on the right of the writ petitioner to continue in possession. Thus, the writ petitioner asserted possession before the learned single Judge and alleged that he was called to the Police Station and was being pressurized to handover the land to the complainant (appellant herein).

5. The denial by the Police officials of that allegation is apparent from the penultimate paragraph of the instructions dated 13.11.2018 given by the Police to the learned Government Pleader as quoted by the learned single Judge in the impugned order in the Writ Petition. That clearly shows that the writ petitioner stands to assert that he is in possession of an item of property. It is the suit filed by his vendors, which has been dismissed by the civil Court.

6. In the aforesaid view of the matter, the impugned order in the Writ Petition could not and ought not have been passed, except after giving an opportunity of hearing to the writ appellant. That position notwithstanding in the light of the civil Court's order, which reflected even in the instructions, it is apparent that the impugned order of the learned single Judge, if allowed to stand, would result in manifest miscarriage of justice.

7. For the aforesaid reasons, we are of the view that the impugned order of the learned single Judge is only to be vacated and the Writ Petition in which that has been passed is liable to be dismissed.

8. In the result, this Writ Appeal is allowed vacating the impugned order in W.P.No.41091 of 2018. The said Writ Petition is also dismissed hereby, leaving open all issues as between the parties to be raised in appropriate jurisdiction in accordance with law.

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

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

05.02.2019
vs