

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

**AND**

**THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY**

**WRIT APPEAL No.1751 OF 2018**

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

This Writ Appeal is by the writ petitioner in W.P. No.38038 of 2018.

2. We have heard learned counsel for the appellant, learned counsel for unofficial respondents and learned standing counsel for official respondents viz., Greater Hyderabad Municipal Corporation, Hyderabad.

3. The writ petition was filed seeking an order declaring the action of the official respondents viz., Greater Hyderabad Municipal Corporation, in passing building permission dated 21.07.2018 in favour of the unofficial respondents for a construction activity on Plot Nos.22, 46 Part and 47, situated at Haripuri Colony, in Survey No.9/1/F of Saroornagar, Ranga Reddy District, as illegal, arbitrary and amounting to playing fraud on the Court by those unofficial respondents, who, according to the writ appellant, are liable to be prosecuted for perjury.

4. Hearing the learned counsel for the writ appellant and the learned counsel for the unofficial respondents as well as the learned standing counsel for Greater Hyderabad Municipal Corporation,

we are of the view that the writ appellant herein is party to second appeals viz., S.A. Nos.811, 812 and 813 of 2012, which are pending before this Court, arising from A.S. Nos.190 of 2004 and 10 and 12 of 2005 of the first appellate Court which in turn arose from O.S. No.56 of 1997 on the file of learned I Additional Senior Civil Judge, Ranga Reddy District, L.B. Nagar, Hyderabad filed by the appellant, who projected himself as a partner of M/s. Unique Builders, Hyderabad. Apart from that, the material papers also show that W.P. No.26232 of 2017 filed by the writ appellant herein is still pending before this Court. That also relates to the objections to the application filed by the rival party for building permission. W.A. No.1738 of 2017 against the interlocutory order issued in W.P.M.P. No.42528 of 2017 in W.P. No.34203 of 2017 also led to listing of that writ petition i.e., W.P. No.34203 of 2017 for consideration before the learned single Judge after the earlier interlocutory order issued in that writ petition was set aside.

5. The aforesaid factors would show that as between the writ appellant herein and the unofficial respondents, second appeals arising from a civil suit and two different writ petitions are pending before this Court as to the scope of the suit from which those second appeals are pending.

6. In answer to our query, the learned counsel for the writ appellant mentioned that it is a suit for injunction. However, the claim for relief of perpetual injunction is founded on the plea of title

and not merely on actual possession or antecedent possession. Therefore, the question of title as between the writ appellant herein and the unofficial respondents is substantially in issue before the second appellate Court. It is also disclosed from the order of the learned single Judge that interlocutory orders before the second appellate Court have not yet brought any relief of temporary nature to the writ appellant herein. We are of the view that, if this writ appeal is to be entertained and orders are to be issued in relation to the so-called “fraud,” as alleged by the writ appellant, that would only result in multiplicity of litigation and, more importantly, attempting to adjudicate the plea of “fraud” through the writ petition; that too based on conflicting papers relatable to different litigations which are sought to be placed on record. We desist ourselves from doing so since if we were to venture to adjudicate on such issue, we also have to decide matters, which would go out of the domain of the writ Court.

7. In the aforesaid circumstances, we do not see any jurisdictional infirmity or illegality in the impugned order of the learned single Judge. We, therefore, do not see any ground to interfere with the impugned order of the learned single Judge through this intra Court appeal. Therefore, the writ appeal fails.

8. In the result, the Writ Appeal is dismissed. We clarify that whatever we have stated herein will not preclude either side from obtaining orders from the second appeals or the writ petitions, which are already pending, and will not prejudice those parties in different

other litigations as well as the course of any inquiry or investigation in relation to First Information Report, which is stated to have been registered as between the parties. No order as to costs.

As a sequel thereto, Miscellaneous Applications, if any pending, in this writ appeal stand closed.

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**THOTTATHIL B. RADHAKRISHNAN, CJ**

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**A. RAJASHEKER REDDY, J**

**January 28, 2019.**

**PV**