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C.M.P.No.27213 of 2023 in
W.A.SR.No.99406 of 2023

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THE HON'BLE CHIEF JUSTICE

and

D.BHARATHA CHAKRAVARTHY, J.

Heard Mr.Leelesh Sundaram, learned counsel appearing for
M/s.Nathan and Associates for the applicants.

2. The present application is filed seeking leave to file an appeal against the order of the learned Single Judge dated 07.06.2022 in W.P.No.11764 of 2022.

3. Under the said order, the learned Single Judge had directed the authority, i.e., the third respondent in the writ petition to decide the representation of the original writ petitioner on merits and in accordance with the Survey and Boundaries Act, 1923 and pass appropriate orders after affording opportunity to the necessary parties within a period of twelve weeks.

4. Learned counsel for the applicants submits that the applicants are the owners of the subject writ property and have already filed a



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civil suit against the original writ petitioner and other defendants. The said suit is pending at the stage of trial. The original writ petitioner is not the owner of the subject writ property. On the basis of the order of this Court, the authorities have proceeded further and are trying to lay down stones.

5. We have perused the impugned order.

6. In case the present applicants are aggrieved, certainly, the applicants have a remedy to file an appeal against the impugned order passed by the learned Single Judge. However, it is not disputed by the learned counsel for the applicants that pursuant to the order of the learned Single Judge, measurement has already been taken and patta has already been issued in favour of the original writ petitioner. The applicants have filed a review before the learned Single Judge. The learned Single Judge observed that patta has already been issued and the present applicants can avail the remedy of appeal against the same.



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7. Once the impugned order has already taken effect, no purpose would be served by entertaining the appeal. The order of the learned Single Judge also states that the representation of the original writ petitioner shall be decided on merits and in accordance with the Survey and Boundaries Act, 1923 and appropriate orders shall be passed after affording opportunity to the necessary parties. In case the applicants are interested and not given any notice, the applicants shall raise all grounds in the appeal, that may be filed by them. Certainly, the appeal filed by the applicants would be considered on merits and the stand of the applicants shall be considered by the Appellate Authority as the learned Single Judge has not decided the rights of the parties on merits.

8. With these observations, the present application stands disposed of. There will be no order as to costs.

(S.V.G., C.J.)

(D.B.C., J.)

08.12.2023

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