

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND EIGHT

PRESENT
THE HON'BLE MR JUSTICE D.S.R.VARMA
and
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT APPEAL No.1820 of 2008

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
11/09/2008 in WP NO : 24585 OF 2005 on the file of the High Court.)

Between:

Khader Hussain S/o. S.Meeram Saheb
C/o. G.Hussain, D.No.17/390-2-2-1-1, N.V.R.Veedhi,
Madanapalli, Chittoor District.

..... APPELLANT

AND

- 1 The Revenue Divisional Officer, Madanapalli, Chittoor District
- 2 The Mandal Revenue Officer, Madanapalli, Chittoor District

.....RESPONDENT(S)

Counsel for the Appellant : MR.P.JAGADISH CHANDRA PRASAD

Counsel for the Respondents : GP FOR REVENUE

The Court made the following :

THE HON'BLE MR JUSTICE D.S.R.VARMA
and
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT APPEAL No.1820 of 2008

ORAL JUDGMENT: (per the Hon'ble Sri Justice D.S.R.Varma)

Heard Sri P. Jagadish Chandra Prasad, learned counsel appearing for the appellant as well as the learned Assistant Government Pleader, representing the learned Government Pleader for Revenue (Assignments) appearing for the respondents.

2. This Writ Appeal is directed against the order, dated 11-09-2008, passed by a learned single Judge of this Court in W.V.M.P.No.3600 of 2005 in W.P.M.P.No.31601 of 2005 in W.P.No.24585 of 2005 vacating the interim orders.

3. Appellant is the petitioner and respondents are the respondents in the writ petition.

4. For the sake of convenience, in this judgment, the parties are referred to as per their array in the writ petition.

5. The grievance of the petitioner is that there is no imminent need to vacate the interim order, dated 18-11-2005, passed by the learned single Judge of this Court.

6. The learned single Judge, of course, having gone into the merits of the case, vacated the interim order, dated 18-11-2005, directing to maintain *status quo* as regards the possession of the land.

7. The petitioner is the purchaser of the land from the original assignee under a registered sale deed, dated 01-06-1968 and

subsequently, basing on the 'no objection' letter given by the original assignee, DKT patta has been granted in favour of the petitioner. The grievance of the petitioner is that without any notice to the petitioner, the respondent authorities are taking steps to distribute the land to poorer sections of the society.

8. Initially, by order, dated 18-11-2005, this Court granted interim order of *status quo*. Subsequently, on the application filed by the respondents seeking vacation of the interim order, dated 18-11-2005, the learned single Judge recorded a finding that a perusal of the record and the averments contained in the pleadings of the parties, certainly an element of confusion is involved in the case. The learned Judge also found that one Mr. K.S.Khader Saheb appears to be the original assignee from whom the petitioner purchased the said land and his name appeared in the order by which the land was resumed. The learned single Judge further found certain discrepancies in the impugned order, which was passed way back in the year 1994. However, perhaps, having regard to the averments made in the counter affidavit filed by the respondents that the land was handed over to Housing Department in August, 2005 and the same was converted into plots and allotted to weaker sections and that foundations were also laid for 23 houses and further that there was no reply affidavit controverting the specific averments, the learned single Judge vacated the interim order, dated 18-11-2005.

9. Even if we go by the impugned order of the learned single Judge, there is some amount of confusion. Unless the said confounding situation is totally removed from the mind of the Court, we are of the view that the interim order, dated 18-11-2005, ought not have been vacated by the

learned single Judge merely basing on the averments made by the respondents that the land was handed over to Housing Department for construction of houses to weaker sections. This is also a verifiable fact. So, even according to the learned single Judge, when the facts are not very clear from the pleadings, in our considered opinion, the learned single Judge ought not have vacated the interim order.

10. Having regard to the facts and circumstances, particularly if the averment made by the respondents is found to be not correct, it would lead to unnecessary complications, in future. Therefore, in order to avert that situation, we feel it expedient to direct the respondents to maintain *status quo*, as was originally granted on 18-11-2005, and the same shall be in force till disposal of the writ petition.

11. Accordingly, the impugned order, dated 11-09-2008, passed by the learned single Judge in W.V.M.P.No.3600 of 2005 in W.P.M.P.No.31601 of 2005 in W.P.No.24585 of 2005 is set aside.

12. Registry is directed to post the writ petition for final hearing on 16-02-2009, subject to part heard.

13. With the above observations and directions, the writ appeal is allowed, at the stage of admission. There shall be no order as to costs.

JUSTICE D.S.R.VARMA

JUSTICE G.CHANDRAIAH

31-12-2008.

Msr

THE HON'BLE MR JUSTICE D.S.R.VARMA
and
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT APPEAL No.1820 of 2008

31-12-2008
(Msr)