

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).5274/2006
 (From the judgement and order dated 03/08/2004 in WA No. 1195/2004,
 WA(SR) No.19832/2004, WA(SR) No.19836/2004, WA(SR) No.19840/2004,
 WA(SR) No.19844/2004, WA(SR) No.19848/2004, WA(SR) No.19852/2004,
 WA(SR) No.19856/2004 and WA(SR) No.19860/2004 of The HIGH COURT OF
 A.P AT HYDERABAD)

DISTRICT COLLECTOR, HYDERABAD & ORS.

Petitioner(s)

VERSUS

MARUTHINAGAR COLONY WELFARE ASSN. & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP,impleadment as party respondent and
 prayer for interim relief and office report)

Date: 02/04/2009 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.V. RAVEENDRAN
 HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s) Mr. Anoop G. Chaudhary, Sr. Adv.
 Mr. Manoj Saxena, Adv.
 Mr. Rajnish K. Singh, Adv.
 Mr. Rahul Shukla, Adv.
 Mr.T.V.George,Adv.

For Respondent(s) Mr. L. Nageswara Rao, Sr. Adv.
 Mr. G. Ramakrishna Prasad,Adv.
 Mr. Suyodhan Byrapaneni, Adv.
 Mr. Amar Pal, Adv.
 Mr. Bharat J. Joshi, Adv.

Mr. K. Maruthi Rao, Adv.
 Mr. K. Radha, Adv.
 Mrs. Anjani Aiyagari ,Adv

Mr. N. Rajaraman ,Adv

Mr. L. Nageswara Rao, Sr. Adv.
 Mr. John Mathew ,Adv
 Ms. Jyoti Eswara, Adv.

UPON hearing counsel the Court made the following
 ORDER

The special leave petitions are disposed of in terms of the
 signed order. All pending applications also stand disposed of.

(Ravi P. Verma) (Anand Singh)
 Court Master Assistant Registrar

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 5274 OF 2006

DISTRICT
HYDERABAD & ORS.

COLLECTOR,

.....APPELLANT(S)

Versus

MARUTHINAGAR COLONY
WELFARE ASSOCIATION & ORS.

.....RESPONDENT(S)

ORDER

By this petition the State of Andhra Pradesh represented by the District Collector, Hyderabad District has sought special leave to appeal against the judgment dated 3.8.2004 of the Andhra Pradesh High Court in W.A. No.1195/2004 and connected unnumbered writ appeals. The High Court has allowed W.A. No.1195/2004 and dismissed all other unnumbered writ appeals where leave had been sought to challenge the order of the learned single Judge.

2. This SLP is filed seeking leave against the order in W.A. No.1195/2004 as also the unnumbered writ appeals which were dismissed. There is no need to grant leave insofar as the order dismissing the unnumbered writ appeals by the High Court.

3. The petitioner initiated action proposing to remove certain alleged encroachers in regard to portion of survey No. 123 and 126 of Lallaguda village. The action was

-2-

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proposed as survey nos.123 to 126 were earlier shown as a water body (tank bed). This was seriously disputed by the persons against whom action was proposed (private respondents) by contending that they had acquired title to their respective plots under deeds of conveyance executed in the year 1980 onwards and many of them had constructed permanent buildings and others were in the process of constructing buildings. They denied that the plots owned by them was part of tank bed or any water body. The private respondents therefore approached the High Court for relief. A Learned Single Judge by order dated 1.8.2003 held that the writ petitioners (the owners of the various portions of survey Nos.123 and 126) can be evicted by adopting summary procedure after issuing notice to them. He also issued certain directions to prevent further encroachment. The said order of learned single Judge was challenged in Writ Appeal No.1195/2004 and connected unnumbered writ appeals by the writ petitioners (alleged encroachers). The Division Bench of the High Court, by its order dated

3.8.2004, allowed the W.A. No.1195/2004, set aside the common order dated 1.8.2003 passed by the learned single Judge with the following directions:

"9. We are not deciding in the instant proceedings about the nature of the rights of the parties as to whether the writ petitioners

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-3-

are having valid title to the property or whether the land is or is not a Government land or is a patta land. We have made out observation on the basis of the stand taken by the Collector in his affidavit wherein it is not disputed that the writ petitioners are in occupation and raised construction on the land and it is also not disputed that the writ petitioners are claiming title on the basis of title deeds of the year 1981 onwards. Under these circumstances, even if the Government would take a stand that it is a Government land and has right to evict the writ petitioners who have no title to these lands, it cannot resort to summary proceedings but will have to resort to summary proceedings but will have to resort to the proceedings as indicated by us in our judgment, namely under the provisions of A.P. Land Grabbing (Prohibition) Act or in a Civil Court by establishing its title or in case it admits the title of the writ petitioners, be proceeded in accordance with law.

10. Insofar as the applicants who have sought special leave of the court to file appeals against the impugned order on ground that by the impugned order their rights are adversely affected, we do not find any ground of grant leave to them to challenge the impugned order since they are not remediless to seek appropriate remedy against the respective writ petitioners in a Civil Court.

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-4-

11. In the result, W.A. No.1195 of 2004 is allowing setting aside the common order passed in W.P. No.9083 of 2000 and batch in toto and direct that the respondents shall not interfere with the possession of the writ petitioners and will not evict them otherwise than in due process of law, as indicated aforementioned."

4. The grievance of the petitioner-State is that it cannot be restricted to take action against the alleged encroachers only under

A.P. Land Grabbing (Prohibition) Act or by approaching Civil Court.

It is submitted that if action under law could be taken either under the A.P. Land Encroachment Act or any other relevant statutes, the State should not be prevented from taking recourse in accordance with law.

A careful reading of para 9 of the order of the Division bench makes it clear that what the court intended was not to restrict the State to action only under A.P. Land Grabbing (Prohibition) Act or a Civil Court but to ensure that there will be proper adjudication of claims/objections of various occupants who claim to have title. As long as their claims/objections are heard, considered and decided, it should make no difference whether the action is taken by the State under A.P. Land Grabbing (Prohibition) Act or by way of suit in a Civil Court, or by any other proceedings under other statutes, in accordance with law. Therefore, we

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-5-

hereby clarify that paragraphs 9 to 11 of the order of the Division Bench of the High Court is not intended to restrict the State to action under A.P. Land Grabbing (Prohibition) Act or in a Civil Court. It is open to the State to take such action under any other enactment providing for eviction of unauthorised occupants or encroachers of such land, provided the same is done in accordance with law after giving due opportunity to the persons affected. It is needless to reiterate that if persons in possession claim title and produce proof in support of it, the same shall have to be considered and appropriate orders passed. The State and its authorities cannot forcibly dispossess the private respondents before completion of such proceedings.

5. The direction given by the learned single Judge that status quo should be maintained by the writ petitioners (private respondents) in regard to possession requires to be reiterated. The said status quo shall continue in force for a period of one year to enable the State Government to secure appropriate interim orders from the concerned authority.

6. With the above clarifications, the special leave petition is disposed of. All pending applications also stand disposed of.

.....J.
(R.V. RAVEENDRAN)

New Delhi;
April 02, 2009.

.....J.
(MARKANDEY KATJU)