

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 5144/2006

V. NARAYANA REDDY & ANR.

Appellant(s)

VERSUS

COMMNR.,MALKAJGIRI MUNICIPALITY & ANR. Respondent(s)
(With appln. (s) for intervention and office report)

Date : 09/07/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE M.Y. EQBAL

For Appellant(s)

Mr. V.V.S.Rao,Sr.Adv.
Mr. C. Pramod Kumar,Adv.
Ms. Vijayshree,Adv.
Mr. Guntur Prabhakar ,Adv.

For Respondent(s)

Mr. R.Anand Padmanabhan,Adv.
Mr. Romil Pathak,Adv.
Mr. R.Santhnan Krishnan,Adv.
Mr. Aditya Kr.,Adv.
Mr. D. Mahesh Babu ,Adv.

Ms. T. Anamika ,Adv.

Mr. Shree Pal Singh,Adv.(NP)

UPON hearing the counsel the Court made the following
O R D E R

Application for intervention is dismissed.
Heard learned counsels for the parties.
The appeal is dismissed in terms of the signed
order.

Signature Not Verified

Digitally signed by
Madhu Bala

(MADHU BALA)
COURT MASTER

(SNEH LATA SHARMA)
COURT MASTER

Date: 2014.08.04
17:17:56 IST

Reason:

(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5144 OF 2006

V. NARAYANA REDDY & ANR.

...APPELLANT(S)

VERSUS

O R D E R

Application for intervention is dismissed.

Heard learned counsels for the parties.

This is a plaintiffs' appeal against the judgment of reversal of the decree by the First Appellate Court which has been maintained by the High Court in Second Appeal. The appellants-plaintiffs had instituted the suit seeking a decree of permanent injunction restraining the defendants therein from interfering with the possession of the suit property which they have obtained on lease from the Second defendant - Defence Housing Cooperative Society. As the Respondent No.1 - Municipality had interfered with the peaceful possession of the appellants-plaintiffs over the suit land, the suit in question was instituted seeking the reliefs earlier noticed.

Respondent No.1- Municipality resisted the suit contending that the suit property is earmarked as open space meant for public park and no construction can be allowed thereon. Respondent

...2/-

-2-

No. 2 - Defence Housing Cooperative Society supported the case of the appellants-plaintiffs. The Trial Court, as already noticed, had decreed the suit.

The reversal of the decree passed in favour of the plaintiffs appears to be based on a reading of the layout plan which was marked as Exhibit A-10 in suit proceeding. In fact, the High Court in the impugned order had recorded the categorical finding that the suit property is earmarked as open space in Exhibit A-10. "Open Space" in the Municipality bye-laws would mean space ear-marked to be kept vacant for the use of public purpose. Though learned counsel for the appellants has tried to persuade us to scan Exhibit A-10 layout plan, we are not inclined to re-appreciate the evidence inasmuch as it has been the concurrent opinion of the First Appellate Court as well as the High Court that the layout plan

(Exhibit A-10) indicates the property as open space earmarked for public purpose. In fact, the said finding has been affirmed by the High Court in the Second Appeal and we find no reason to interfere with the order passed by the High Court. The civil appeal is dismissed in view of our findings and conclusions as above. There will be no order as to cost.

.....J.
[RANJAN GOGOI]

NEW DELHI
9TH JULY, 2014

.....J.
[M.Y. EQBAL]