

The State Of Andhra Pradesh vs Raghu Ramakrishna Raju Kanumuru (M.P) on 1 June, 2022

Author: B.R. Gavai

Bench: B.R. Gavai, Hima Kohli

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S) . 4522-4524 OF 2022
(@ DIARY NO. 16486/2022)

THE STATE OF ANDHRA PRADESH

APPELLANT(S)

VERSUS

RAGHU RAMAKRISHNA RAJU
KANUMURU (M.P.)

RESPONDENT(S)

JUDGMENT

B.R. GAVAI, J.

Permission to file appeal without certified/plain copy of impugned order is granted.

Issue notice.

Shri Balaji Srinivasan, learned counsel accepts notice on behalf of the sole respondent, and as such, we have heard the matter finally.

1. The appellant challenges the order dated 6 th May 2022 passed by the National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as the “NGT”) in O.A. No.361 of 2021, vide which it prohibited the appellant from undertaking any further construction. The appellant also challenges the order dated 20th May 2022 passed by the learned NGT in I.A. Nos. 117 and 118 of 2022 in O.A. No. 361 of 2022, vide which the application seeking vacation of stay imposed vide order dated 6th May 2022 was rejected.

2. The appellant was already running a resort at Rushikonda Hill, near Visakhapatnam. According to the appellant, after obtaining the necessary permission, it has demolished the existing resort and is re \square constructing the resort at the same place with additional facilities.

3. A writ petition being W.P. (P.I.L.) No.241 of 2021, challenging the said construction, has already been filed before the High Court of Andhra Pradesh at Amaravati. In the said writ petition, the Division Bench of the High Court has passed the following order on 16th December 2021:

“In the meanwhile, the construction activities and other allied activities in relation to the subject project, if any undertaken, shall be strictly in accordance with the permission accorded by the Ministry of Environment, Forest and Climate Change, as well as the existing master plan.”

4. It appears that the aforesaid writ petition before the High Court was filed on 8 th December 2021. However, a letter addressed by the respondent was sent on 31 st October 2021 to the learned NGT. The respondent is a sitting Member of Parliament from one of the constituencies in the State of Andhra Pradesh. The learned NGT, after taking cognizance of the said letter, initiated the proceedings in O.A. No.361 of 2021. It further appears from the record that the learned NGT had appointed an Experts Committee on 17 th December 2021 which submitted its Report on 29 th March 2022. A perusal of the said report would reveal that the said Experts Committee consisting of four experts did not find any violation in the construction that was carried out by the appellant.

5. However, the learned NGT again, vide its order dated 6 th May 2022, appointed a 2nd Experts Committee. The report of the said 2nd Experts Committee is still awaited. However, without waiting for the said report, by the same order, the learned NGT directed that no further construction to be undertaken.

6. It appears that after the order dated 6 th May 2022 was passed by the learned NGT, the appellant filed an application for vacating stay on construction as directed in the said interim order dated 6th May 2022 passed by the learned NGT. However, the same was also rejected by the learned NGT vide its order dated 20th May 2022. Both these orders are impugned in the present appeals.

7. Dr. Abhishek Manu Singhvi, learned Senior Counsel appearing on behalf of the appellant, submitted that when the High Court of competent jurisdiction was already in seisin of the matter, the learned NGT could not have entertained a lis with regard to the same cause of action. He submitted that though this fact was brought to the notice of the learned NGT, the learned NGT refused to vacate the interim order dated 6th May 2022, which was in conflict with the order of the High Court dated 16th December 2021.

8. Dr. Singhvi submitted that NGT is a Tribunal, which is subordinate to the High Court in so far as the territorial jurisdiction of the High Court is concerned. He, therefore, submitted that the very continuation of the proceedings before the learned NGT is not sustainable in law.

9. Shri Balaji Srinivasan, learned counsel appearing on behalf of the respondent, on the contrary, submitted that the appellant has acted in gross breach of the order dated 16 th December 2021 passed by the High Court of Andhra Pradesh at Amravati. He submitted that the construction is rampantly going on in blatant violation of the order of the High Court. Contempt petition has already been filed before the High Court, wherein the High Court after taking cognizance of the

blatant violation, issued notice on 4 th May 2022.

10. This Court, in the case of Priya Gupta and Another v. Additional Secretary, Ministry of Health and Family Welfare and Others¹, has observed thus:

“12. The government departments are no exception to the consequences of wilful disobedience of the orders of the Court. Violation of the orders of the Court would be its disobedience and would invite action in accordance with law. The orders passed by this Court are the law of the land in terms of Article 1 (2013) 11 SCC 404 141 of the Constitution of India. No Court or Tribunal and for that matter any other authority can ignore the law stated by this Court. Such obedience would also be conducive to their smooth working, otherwise there would be confusion in the administration of law and the respect for law would irretrievably suffer. There can be no hesitation in holding that the law declared by the higher court in the State is binding on authorities and tribunals under its superintendence and they cannot ignore it. This Court also expressed the view that it had become necessary to reiterate that disrespect to the constitutional ethos and breach of discipline have a grave impact on the credibility of judicial institution and encourages chance litigation. It must be remembered that predictability and certainty are important hallmarks of judicial jurisprudence developed in this country, as discipline is sine qua non for effective and efficient functioning of the judicial system. If the Courts command others to act in accordance with the provisions of the Constitution and to abide by the rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the law. [Ref. East India Commercial Companies Ltd. v. Collector of Customs [AIR 1962 SC 1893] and Official Liquidator v. Dayanand & Ors. [(2008) 10 SCC 1]”

11. In any case, no law is necessary to state that insofar as the Tribunals are concerned, they would be subordinate to the High Court insofar as the territorial jurisdiction of the High Court is concerned. A reference in this respect was also made to the judgment of the Constitution Bench of this Court in the case of L. Chandra Kumar v. Union of India and Others².

12. We are, therefore, of the considered view that it was not appropriate on the part of the learned NGT to have continued with the proceedings before it, specifically, when it was pointed that the High Court was also in seisin of the matter and had passed an interim order permitting the construction. The conflicting orders passed by the learned NGT and the High Court would lead to an anomalous situation, where the authorities would be faced with a difficulty as to which order they are required to follow. There can be no manner of doubt that in such a situation, it is the orders passed by the constitutional courts, which would be prevailing over the orders passed by the statutory tribunals.

13. In that view of the matter, we are of the considered view that the continuation of the proceedings before the learned NGT for the same cause of action, which is seized with the High Court, would not be in the interest of justice.

14. We, therefore, quash and set aside the proceedings 2 (1995) 1 SCC 400 pending before the learned NGT in O.A. No.361 of 2021.

15. We further find that taking into consideration the serious allegations made by the respondent, it will be appropriate that all these facts are placed before the High Court and the High Court considers passing appropriate orders in accordance with law so as to strike a balance between the development and the environmental issues.

16. Needless to state that though development is necessary for economical progress of the nation, it is equally necessary to safeguard the environment so as to preserve pollution free environment and ecology for the future generations to come.

17. We, therefore, find that it will be appropriate that the parties move the High Court for appropriate orders. The respondent would be at liberty to file an application for impleadment before the High Court in the pending proceedings, which would be considered by the High Court in accordance with law.

18. Though, the High Court has permitted construction to proceed in accordance with law, we find that till the High Court takes a fresh call on the said issue, it will be necessary to issue the following direction:

(a) Until the High Court considers the issue, the construction will be permitted only on the area where the construction existed earlier and which has been demolished and the flat area.

19. Dr. Singhvi, learned Senior Counsel appearing on behalf of the State, on instructions from Shri Mahfooz Ahsan Nazki, stated that the appellant would not claim any equities on account of the construction, which is permitted to be proceeded further.

20. We further clarify that we have not expressed any opinion on the merits of the matter and the parties would be at liberty to raise all the issues available to them before the High Court which shall be considered in accordance with law. Since the learned NGT has already constituted an Experts Committee, the High Court would be at liberty to take into consideration the report of the said Experts Committee or if it finds appropriate may appoint other Committee as it deems fit.

21. The appeals stand disposed of in the above terms. Pending application(s), if any, shall also stand disposed of.

.....J. (B.R. GAVAI)J. (HIMA KOHLI) NEW DELHI;

June 01, 2022.

ITEM NO.3

COURT NO.5

SECTION XVII

S U P R E M E C O U R T O F

I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL Diary No(s). 16486/2022

(Arising out of impugned Interim order dated 06-05-2022 in OA No. 361/2021 20-05-2022 in IA No. 117/2022 20-05- 2022 in IA No. 118/2022 passed by the National Green Tribunal) THE STATE OF ANDHRA PRADESH Appellant(s) VERSUS RAGHU RAMAKRISHNA RAJU KANUMURU (M.P) Respondent(s) (IA No.80661/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.80659/2022-STAY APPLICATION and IA No.80658/2022-PERMISSION TO FILE SLP WITHOUT CERTIFIED/PLAIN COPY OF IMPUGNED ORDER and IA No.81808/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)
Date : 01-06-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI HON'BLE MS. JUSTICE HIMA KOHLI
(VACATION BENCH) For Petitioner(s) Dr. Abhishek Manu Singhvi, Sr. Adv.

Mr. S. Niranjan Reddy, Sr. Adv.

Mr. Mahfooz Ahsan Nazki, AOR Mr. Polanki Gowtham, Advocate Mr. Shaik Mohamad Haneef, Adv Mr. T. Vijaya Bhaskar Reddy, Adv Mr. K.V.Girish Chowdary, Adv Ms. Rajeswari Mukherjee, Adv Ms. Akhila Palem, Adv Mr. Abhishek Sharma, Adv Mr. Sahil Raveen, Adv For Respondent(s) Mr. Balaji Srinivasan, AOR UPON hearing the counsel the Court made the following O R D E R Permission to file appeal without certified/plain copy of impugned order is granted.

Issue notice.

Shri Balaji Srinivasan, learned counsel accepts notice on behalf of the sole respondent.

The appeals stand disposed of in terms of the signed Reportable Judgment. Pending application(s), if any, shall also stand disposed of.

(Geeta Ahuja)
Assistant Registrar-cum-PS

(Ranjana Shailey)
Court Master

(Signed Reportable Judgment is placed on the file)