

Daily Orders for Case WA 809/2022

| Sl. No | Judge(s) Name | Date of Order | Daily Order |
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| 1 | ACTING CHIEF JUSTICE AND S VISHWAJITH SHETTY | 26/08/2022 | <p>Mr.Prabhuling K Navadgi, learned Advocate General along with Mr.S.S.Mahendra, learned Additional Government Advocate for appellant. Mr.Jayakumar S. Patil, learned Senior counsel for Mr.Ajesh Kumar S., learned counsel for caveator respondents No.1 and 2. Mr.Srinidhi V., learned counsel for respondents No.3 and 4. Issue notice to respondent No.5. This intra court appeal emanates from an interim order dated 25.08.2022 passed by the learned Single Judge in W.P.No.16807/2022.</p> <p>2. The Karnataka State Board of Waqf (hereinafter referred to as 'the Board' for short) had filed a writ petition in which order dated 06.08.2022 passed by the Joint Commissioner, BBMP, by which prayer made to digitize or computerize the land in its name i.e., measuring 2 acre and 5 guntas in Sy.No.40 in Charamarajpet, Bangalore was rejected. In the said writ petition, the following prayer for interim relief was made: Pending disposal of the instant writ petition, the Hon'ble Court may be pleased to stay the order dated 06.08.2022 passed by the 3rd respondent Joint Commissioner BBMP in Review Application 04/2022-23 appended at Annexure-A to the petition.</p> <p>3. The learned Single Judge however, while dealing with the prayer for interim relief has passed an order on 25.08.2022. The relevant extract of the order reads as under: 7. The parties are hereby restrained from using the subject and for any other purposes other than the following purposes. (i) The State Government / BBMP are permitted to celebrate Independence Day and Republic Day on the subject land. (ii) The subject land can be continued to be used as a public playground. (iii) The members of the Muslim community can continue to offer prayers on the subject land on the days of Ramzan and Bakrid festivals, however are not permitted to offer prayers on any other day. Liberty is reserved with the parties to file an appropriate application for modification of this order. List this matter on 23.09.2022.</p> <p>4. Being aggrieved by impugned order, insofar as it contains the aforesaid directions, the Government of Karnataka has filed this appeal.</p> <p>5. Learned Advocate General submitted that there is a dispute with regard to title of the land in question and the Deputy Commissioner, Bangalore City has received as many as five applications from various organizations seeking permission to use the land in question on 31.08.2022 for a limited period for the purpose of holding religious and cultural activities and the State Government be permitted to take appropriate decision on the aforesaid application. On the other hand learned Senior counsel for respondents No.1 and 2 who has entered appearance on caveat has opposed the aforesaid prayer. We have also heard learned counsel for respondents No.3 and 4 at length.</p> <p>6. It appears, that there is a dispute with regard to title of the property in question. It is also noteworthy that the respondent No.1 against the order impugned in the writ petition dated 06.08.2022 passed by the Joint Commissioner, BBMP had approached the Waqf Tribunal along with an application seeking an ad interim relief. The Waqf Tribunal by an order dated 12.08.2022 issued emergent notice on the main application as well as I.A. seeking ad interim order and made the notice returnable by 02.09.2022. However, the respondent No.1 filed a memo on 17.08.2022 and withdrew the aforesaid proceeding and thereafter the writ petition was filed seeking the relief of quashment of order dated 06.08.2022.</p> <p>7. The controversy is pending adjudication before the learned Single Judge. The Indian Society comprises, religious, linguistic, regional or sectional diversities. The Constitution of India itself fosters brotherhood amongst various sections of the Society. The principle of religious toleration is the characteristic of Indian civilization. We therefore, at this stage, in the peculiar facts of the case, we modify the interim order dated 25.08.2022 and permit the State Government to consider and pass appropriate orders on applications received by the Deputy Commissioner seeking use of the land in question for holding religious and cultural activities for a limited period from 31.08.2022 onwards. It is clarified that rest of the directions contained in the order dated 25.08.2022 passed by the learned Single Judge remain unaltered. It is also clarified that the observations / findings have been made in this order only for the purpose of considering the prayer for interim relief and shall have no bearing on the merits of the matter either in this appeal or in the writ petition pending before the learned Single Judge. List on 12.09.2022.</p> |