

CASE NO.:
Appeal (civil) 1890 of 2003

PETITIONER:
Vice-Chairman, Hyderabad Urban Development Authority

RESPONDENT:
Kavitha Reddy & Ors.

DATE OF JUDGMENT: 03/03/2003

BENCH:
Syed Shah Mohammed Quadri & Ashok Bhan

JUDGMENT:

J U D G M E N T

[Arising out of S.L.P.(C) No.1987 of 2001]

SYED SHAH MOHAMMED QUADRI, J.

Leave is granted.

Heard learned counsel for the parties.

Dissatisfied with the order of the Division Bench of the High Court of (Judicature) Andhra Pradesh at Hyderabad in Writ Appeal No.769 of 2000 dated December 2, 2000, the Vice-Chairman, Hyderabad Urban Development Authority is in appeal before this Court.

The respondents filed Writ Petition No.4187 of 2000 seeking a writ of mandamus to declare Letter No.2967/P4/H/99 dated February 18, 2000 issued by the appellant was illegal and arbitrary, to quash the same and for a consequential direction to the appellant to release the plan without insisting on the production of the Urban Land Ceiling Clearance Certificate from the Special Officer, Urban Land Ceiling. A learned Single Judge of the High Court allowed the Writ Petition following the judgment of the same High Court in Writ Petition No.23100 of 1999 passed on November 19, 1999. A perusal of the said judgment discloses that it was rendered following the judgment of the same High Court in Writ Petition No.898 of 1999 dated August 3, 1999, wherein a similar relief was prayed for. The appellant unsuccessfully assailed that order dated August 3, 1999 in Writ Appeal No.315 of 2000 which was dismissed on April 19, 2000. It appears that Special Leave Petition (C) No.9491 of 2000 seeking leave to appeal against the judgment of April 19, 2000 was dismissed by this Court on July 13, 2000.

It may be relevant to mention here that the judgment in Writ Petition No.898 of 1999 was rendered by following the judgment in Writ Appeal No.968 of 1998 dated October 22, 1998. That judgment was carried in appeal to this court, by special leave, in Civil Appeal No.7348 of 2001 - Government of A.P. & Ors. vs. J.Sridevi & Ors. [2002 (5) SCC 37]. By judgment rendered on April 12, 2002, the order of the High Court, under challenge, was set aside and the case was remanded to the competent authority to decide the matter afresh without being influenced by any observations made in the said judgment.

It will be relevant to mention that against the order of the learned Single Judge of the High Court in Writ Petition

No.23100 of 1999 allowing the Writ Petition on November 19, 1999, Writ Appeal No.44 of 2000 was filed which was dismissed on February 17, 2000. That judgment was carried in appeal to this Court, by special leave, in Civil Appeal No.3996 of 2002 @ Special Leave Petition (C) No.1342/2001) and it was allowed on July 12, 2002 following the judgment of this Court in J.Sridevi's case (supra).

Mr.M.N.Rao, the learned senior counsel appearing for the respondents, strenuously contends that against the judgment in the case of Lata Rani, Special Leave Petition (C) No.9491 of 2000, was dismissed on July 13, 2000 and she availed the benefit of the judgment of the High Court; acting upon the order under challenge, the respondents completed the construction and if the appeal is allowed and the order of the High Court is set aside she would be put to great hardship and irreparable loss.

It has already been noticed that the first case which was decided by the High Court was that of J.Sridevi in Writ Petition No.5929 of 1997 which was upheld in Writ Appeal No.968 of 1998 by the Division Bench. It was that case which was followed by the High Court in the case of Lata Rani (Writ Petition No.898 of 1999) as well as in the case of U.B.Properties (Writ Petition No.23100 of 1999). The judgment of the High Court in Sridevi's case (supra) has been reversed by this Court. Consequently, the dismissal of the Special Leave Petition against the order of the High Court in Writ Appeal No.315 of 2000 (against the judgment in Writ Petition No.898 of 1999) has to be confined to the facts of that case. Inasmuch as the judgment of the High Court in Sridevi's case (referred to above) has been set aside by this Court and the judgment of the High Court in U.B.Properties case which was also set aside, were followed by the High Court in the appellant's case, the order under challenge cannot be sustained.

For the aforementioned reasons, the order under challenge is set aside and the appeal is disposed of in terms of the judgment of this Court in Sridevi's case (supra). We take note of the fact that the respondents have completed the construction on the basis of the order under challenge and direct that till the disposal of the case by the Special Officer-cum-Competent Authority the construction made by the respondents shall not be disturbed. We also make it clear that the said authority shall give a fresh look to the matter without being influenced by any observations made herein and pass appropriate orders on the facts and circumstances of the case including the fact that the respondents, acting upon the order under challenge, completed the construction. The appeal is accordingly allowed. There shall be no order as to costs.