

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.3632 OF 2022
(Arising out of SLP(C)No.3223 of 2022)

P. GOVIND REDDY & ORS.

... APPELLANTS

Versus

CHIEF COMMISSIONER & ORS.

... RESPONDENTS

WITH
TRANSFER PETITION(C)NO.630/2022
TRANSFER PETITION(C)NO.631/2022

O R D E R

C.A.No.3632/2022 @ SLP(C)No.3223/2022

1. Leave granted.
2. The instant appeal, by way of special leave, is directed against interim order dated 21.09.2021 passed by the Division Bench of the Telangana High Court, whereby the High Court deleted the name of Commissioner (Appeals) from the array of appellants while retaining the writ appeal and *suo motu* impleading the State of Telangana represented through the Principal Secretary, Revenue, as an appellant on the ground that it is a necessary party.
3. The appellants herein are aggrieved by the fact that the High Court, while agreeing with their submission that the Commissioner (Appeals) was not an appropriate appellant being the quasi-judicial authority that had passed the order impugned in the Writ Petition, did not accede to their submission that

the Writ Appeal should be declared non-maintainable on that ground. Additionally, they are also aggrieved by the fact that the High Court *suo motu* impleaded the State as an appellant.

4. Heard learned counsel appearing on behalf of the parties and carefully perused the material placed on record.
5. Learned Senior counsel appearing on behalf of the appellants submitted that the impugned order passed by the High Court ought to be set aside to the extent that it has *suo motu* impleaded the State of Telangana as the second appellant in the appeal. He further submits that the Writ Appeal was primarily filed by the Commissioner (Appeals), which is a quasi-judicial authority and once the Division Bench held that the said appeal is not maintainable as filed by her, the appeal ought to have been dismissed in *limine* on the preliminary ground of non-maintainability and that there was no occasion for ordering substitution.
6. *Per contra*, learned counsel appearing on behalf of the respondent No.2 - State of Telangana submits that the Division Bench of the High Court was right in opining that the State is a necessary party and impleading it *suo motu* in Writ Appeal No.1105 of 2017. The State being a necessary party and a proper party in both the writ petitions, the impugned order does not deserve interference.
7. The impugned order dated 21.09.21, passed by the High Court of Telangana is as follows:

“When this Appeal is taken up, it is pointed out that the Commissioner (Appeals) could not have

been joined as an appellant, since his order was challenged in WP No.9707 of 2009 and the said order had been set aside on 14.02.2017 in the said writ petition.

Prima facie, we find force in this contention.

Therefore, we hold that the 2nd appellant cannot file this appeal and the Appeal insofar as he is concerned is not maintainable and he is struck off from the array of appellants.

Since the State of Telangana, represented by its Principal Secretary, Revenue, is a necessary party, we *suo moto* implead the said party as the 2nd appellant in the Appeal.

Liberty is given to the State Government and the Additional Advocate General to file fresh affidavit of the competent authority in this matter.

Delete from the caption 'for dismissal' and list on 18.10.2021.

It is open to the private respondents to take all defenses available to them in law in the Writ Appeal as well as in the counter affidavits to be filed by them to the affidavit to be filed on behalf of the appellants seeking Condonation of delay or suspension of the impugned order"

8. It is explicit from the record that the Commissioner (Appeals) was the authority that passed the order dated 09.04.2008, which was challenged by the appellants herein by filing the underlying writ petitions. This Court is not aware of such an anomalous situation, where the authority which passes the order files an appeal against the judgment of a High Court setting aside the same under its supervisory writ jurisdiction. This

goes against all tenets of propriety, and the Division Bench rightly struck off the Commissioner (Appeals) as an appellant.

9. The deletion of the said appellant, however, does not necessarily mean that the writ appeal before the Division Bench of the High Court can be dismissed as non-maintainable on that ground alone, as other appellants are also a party to the writ appeal before the High Court. The impugned order cannot therefore be faulted for the same.
10. However, as the counsel for the appellant rightly pointed out, the *suo motu* impleadment of the State as a party appellant by the High Court *vide* the impugned order was not the correct approach. The State is not an unaware litigant, that needs special treatment or protection from the Court. In the present case, it cannot be denied that the State was aware of the proceedings before the High Court, including the order passed by the Single Judge in the writ petition. They could have always filed a writ appeal or joined in the present writ appeal filed by other State functionaries. Additionally, even if the State was not formally a party, the Chief Commissioner (Land Administration), Joint Collector, Ranga Reddy and the Mandal Revenue Officer, Serilingampalli Mandal were party appellants who could represent the State interests effectively before the Division Bench.
11. Having given our thoughtful consideration to the rival submissions advanced by learned counsel for the parties, we are therefore of the considered opinion that the impugned order passed by the High Court ought to be set aside to the extent

that it has *suo motu* impleaded the State of Telangana as appellant No. 2 in the writ appeal.

12. The appeal stands disposed of on the above terms. The parties shall appear in the writ appeal pending before the High Court on the date fixed for further proceedings. Taking into consideration the long pendency of the dispute, which has been further delayed due to the *suo motu* impleadment of the State vide impugned order, we request the High Court to dispose of the proceedings pending before it expeditiously, preferably within a period of 6 weeks.

T.P.(C)No.630/2022 and T.P.(C)No.631/2022

1. Learned Senior counsel appearing on behalf of the petitioner seeks permission to withdraw these petitions.
2. Permission, as prayed for, is granted.
3. The transfer petitions are, accordingly, dismissed as withdrawn.

.....CJI.
(N.V. RAMANA)

.....J.
(KRISHNA MURARI)

.....J.
(HIMA KOHLI)

NEW DELHI;
MAY 04, 2022

ITEM NO.14

COURT NO.1

SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).3223/2022

(Arising out of impugned final judgment and order dated 21-09-2021 in WA No.1105/2017 passed by the High Court for the State of Telangana at Hyderabad)

P. GOVIND REDDY & ORS.

Petitioner(s)

VERSUS

CHIEF COMMISSIONER & ORS.

Respondent(s)

(FOR ADMISSION and I.R.)

WITH

T.P.(C) No.630/2022 (XVI-A)

(FOR ADMISSION)

T.P.(C) No.631/2022 (XVI-A)

(FOR ADMISSION and IA No.39938/2022-EX-PARTE STAY)

Date : 04-05-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE KRISHNA MURARI

HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s)

Dr. A.M. Singhvi, Sr. Adv.

Mr. V. Giri, Sr. Adv.

Mr. Ananga Bhattacharyya, Adv.

Mr. Rohit Rao N., Adv.

Ms. Devahuti Tamuli, Adv.

Ms. Ekta Pradhan, Adv.

Ms. Anushka Singh, Adv.

Mr. Shiv Gupta, Adv.

For M/s.Veritas Legis, AOR

For Respondent(s)

Mr. C.S. Vaidyanathan, Sr. Adv.

Mr. Dushyant Dave, Sr. Adv.

Mr. P. Venkat Reddy, Adv.

Mr. Prashant Tyagi, Adv.

Mr. P. Srinivas Reddy, Adv.

For M/s.Venkat Palwai Law Associates, AOR

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

Special Leave Petition(Civil) No.3223/2022-

Leave granted.

The appeal stands disposed of, in terms of the signed order.

T.P.(C) No.630/2022 & T.P.(C) No.631/2022:-

The transfer petitions are dismissed as withdrawn, in terms of the signed order.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(R.S. NARAYANAN)
COURT MASTER (NSH)

(Signed Common Order is placed on the file)