



NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO(S). 12895-12896 OF 2026
(ARISING OUT OF S.L.P. (CIVIL) NO(S).3016-3017 OF 2026)**

THE STATE OF TELANGANA AND OTHERS

...APPELLANT(S)

VERSUS

M.A. GARDEN FUNCTION HALL AND OTHERS ETC.

...RESPONDENT(S)

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1. Leave granted.
2. M/s. Kishan Chand Foundation Trust¹ was issued a notice on 26.06.1997 under Section 7 of the Andhra Pradesh Land Encroachment Act, 1905², by the Mandal Revenue Officer, Himayathnagar (appellant no. 4 herein), calling upon it to show cause as to why it should not be evicted from the subject land admeasuring 4678 square meters, falling in T.S.No.19, Ward No.54, Block-L of Gaganmahal Village, Hyderabad. The Trust claims ownership over the subject land by virtue of a registered Sale Deed executed in its favour in the year 1968.
3. The civil suit being O.S.No.2364 of 1997, filed by the Trust before the learned VI Junior Civil Judge, City Civil Court, Hyderabad, came to be dismissed on 13.07.2001 on the ground of pecuniary jurisdiction. Thereafter, the Trust

¹ For short, 'Trust'

² For short, '1905 Act'

preferred an appeal bearing A.S. No. 387 of 2001 before the learned Chief Judge, City Civil Court, Hyderabad, which came to be dismissed on 29.08.2002 for non-prosecution. Thereafter, proceedings under Section 6 of the 1905 Act were issued by the authorities directing the Trust to deliver possession of the subject property. Subsequently, questioning the aforesaid notices, the Trust filed Writ Petition No. 23001 of 2004 along with W.P.M.P.No. 9726 of 2005, which came to be allowed by the learned Single Judge on 26.04.2005. Paragraph 25 of the said order reads as follows:-

“25. For the above reasons, W.P.M.P.No.9726 of 2005 and also the writ petition have to be and hence are allowed. Rule Nisi is made absolute. Accordingly, notice issued to the petitioner under Section 7 of the Act by the third respondent and the Order under Section 6 of the Act prepared in the name of third respondent impugned in this petition are quashed. Parties are directed to bear their own costs.”

4. Aggrieved by the aforesaid order of the learned Single Judge, the State preferred Writ Appeal No. 1243 of 2005 before the High Court of Judicature at Hyderabad. The said Writ Appeal came to be allowed by the Division Bench *vide* judgment dated 07.09.2022, whereby the order passed by the learned Single Judge was set aside. The Division Bench, *inter alia*, recorded the following findings in paragraphs 10 and 11:-

“10. We are unable to accept the observations and findings of the learned Single Judge. When there are serious disputes as to possession of the respondent over the subject land with the appellants contending the same to be Government land, it was not at all justified on the part of the learned Single Judge to have recorded a finding of possession in favour of the respondent. A writ Court under Article 226 of the Constitution of India is not a forum for declaration of possession or title of a person, that too, when there are serious factual disputes.

11. At this stage, we may point out that after dismissal of the suit and filing of the writ petition, respondent filed a petition for restoration of A.S.No.387 of 2001. This fact was not informed to the Court below. That apart, the Act provides for remedy of appeal against an order passed under Section 6 of the Act and further remedy of revision before the revisional authority.”

5. Aggrieved by the aforesaid judgment dated 07.09.2022, the Trust preferred SLP (C) No. 16769 of 2022 before this Court. This Court, *vide* interim order dated 26.09.2022, directed the parties to maintain *status quo* in respect of the subject property. However, subsequently, *vide* order dated 09.09.2025, the said Special Leave Petition was permitted to be withdrawn, with liberty to the Trust to avail the remedy of instituting a fresh suit. Significantly, while permitting withdrawal of the Special Leave Petition, this Court did not grant any further interim protection in favour of the Trust.

6. Immediately thereafter, M.A. Garden Function Hall, represented by Mohammed Omer and two others, and Mohammed Wasiq Wahaj Uddin, claiming to be the lessees of the Trust, instituted W.P. Nos. 27715 and 27718 of 2025 before the High Court, challenging the action of the State authorities in taking possession of the subject premises.

7. The learned Single Judge, *vide* common order dated 12.09.2025, disposed of the aforesaid writ petitions by granting liberty to the Trust to institute a fresh suit pursuant to the liberty granted by this Court, within a period of ten days. The State authorities were, in the meantime, directed not to dispossess the writ petitioners from the subject property. The learned Single Judge further directed the Mandal Revenue Officer to unlock the M.A. Garden Function Hall and granted liberty to the Trust to approach the civil court and seek appropriate interim orders within the said period of ten days, failing which, the State authorities were left at liberty to take action in accordance with law.

8. Aggrieved by the aforesaid order dated 12.09.2025, the State preferred Writ Appeal Nos. 1031 and 1032 of 2025 before the Division Bench of the High Court.

The Division Bench, *vide* impugned common judgment dated 30.12.2025, dismissed the said writ appeals and affirmed the order passed by the learned Single Judge.

9. We are informed that, although the suit was instituted on 16.09.2025, no interim order has been granted by the Trial Court within the stipulated period of ten days. Thus, the fact remains that the liberty granted by the learned Single Judge has not been effectively availed of within the period of ten days.

10. Be that as it may, we are of the considered view that once the Special Leave Petition preferred by the Trust was disposed of as withdrawn without interfering with the order passed by the Division Bench of the High Court on 07.09.2022 in Writ Appeal No.1243 of 2005 reserving liberty in favour of the Trust to avail the remedy of preferring a fresh suit, it was not open for the lessees to prefer a writ petition as the lessees are claiming possession through the Trust against whom the Division Bench of the High Court has already passed an order and the Special Leave Petition against the same has been withdrawn. The learned Single Judge and the Division Bench could not have exercised the writ jurisdiction in the teeth of the earlier orders passed by the Division Bench and this Court. Once the High Court has already recorded a finding in Writ Appeal No.1243 of 2005 that it was not open for the writ court to record finding of possession, a second writ petition filed by the lessees only for protection of possession ought not to have been entertained. It is interesting and significant to notice that the Special Leave Petition preferred by the Trust was disposed of as withdrawn on 09.09.2025 without interfering with the order passed by the Division Bench in Writ Appeal No.1243 of 2005 reserving liberty in favour of the Trust to avail remedy of

preferring a fresh suit, the present round of writ petition was preferred by the lessees and not by the Trust, on or after 11.09.2025. It appears, since the Trust could not have filed a writ petition, the lessees came forward for preferring a fresh set of writ petition only to secure an interim order which otherwise could have been considered only by the civil court considering the findings of the Division Bench in Writ Appeal No.1243 of 2005 which was not interfered by this Court.

11. In view of the above, the impugned order passed by the learned Single Judge on 12.09.2025 in Writ Petition Nos.27715 and 27718 of 2025 and the impugned judgment passed by the Division Bench on 30.12.2025 in Writ Appeal Nos.1031 and 1032 of 2025 are set aside, without interfering with the State's action of locking the premises.

12. We are informed that a civil suit has already been filed and the same is pending consideration before the Trial Court. Needless to say, the suit shall be decided on its own merits.

13. The Appeals are accordingly allowed.

.....**J.**
(PRASHANT KUMAR MISHRA)

.....**J.**
(SHREE CHANDRASHEKHAR)

NEW DELHI;
SEPTEMBER 16, 2026.