

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT APPEAL NO.126 OF 2015

DATED:20.02.2015

Between:

Toddy Tappers Cooperative Society Nizamabad-I, Nizamabad.

... Appellant.

And

The Prohibition & Excise Sperintendent-cum-Functional Registrar,
Toddy Tappers Cooperative Societies, Nizamabad and
others

... Respondents

**THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR**

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WRIT APPEAL No.126 OF 2015

JUDGMENT: (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

All the parties are present before us. By the consent of the parties, at the admission stage, we dispose of the appeal finally.

The instant appeal is preferred against the common judgment and order passed by the Hon'ble Trial Judge on 12.09.2014 disposing of W.P.Nos.4962 and 7858 of 2003, 28225 of 2005 and 25463 of 2007.

The appellant is the unofficial respondent in W.P.No.28225 of 2005. We notice in this matter that the Hon'ble Trial Judge did not grant any relief, only directed the official respondents in the writ petition to consider the case of the writ petitioner in respect of the shops locate beyond the area of operation of the Toddy Cooperative Society, Nizamabad. We find that no relief has been granted and no decision has been taken affecting any of the parties to the writ petition, hence there is no question of appeal being preferred.

Learned counsel for the writ petitioner – respondent submits that despite the direction of the Hon'ble Trial Judge, the case of his client has not been considered as yet, possibly because no time limit has been fixed by the Hon'ble Trial Judge.

Learned Counsel for the State is unable to throw any light on this issue of non-consideration in terms of the order of the Hon'ble Trial Judge.

We find, as rightly said by the learned lawyer for the writ petitioner – respondent, His Lordship perhaps was not assisted properly to have time limit. Without touching the judgment and order of the Hon'ble Trial Judge substantially we clarify as follows:

In the event the case of the writ petitioner in terms of the decision of the Hon'ble Trial Judge has not been considered by the respondents as on today, the appellant before us should also be notified before considering the case of the writ petitioner and its case be considered along with the writ petitioner's case, as directed by the Hon'ble Trial Judge and shall pass speaking order. The entire exercise shall be completed within eight (8) weeks from the date of communication of this order. We make it clear, in spite of notice being issued to the parties, if anyone fails to appear, decision may be taken in the absence of any defaulting party. We record that any observation or decision on this issue of the Hon'ble Trial Judge or that of ours will not be binding and influencing factor for taking a decision in terms of the order of the Hon'ble Trial Judge.

Learned counsel for the writ petitioner - respondent says that the appellant has no locus on this issue. The writ petitioner will be free to agitate this point before appropriate forum.

The Writ Appeal is accordingly disposed of.

Consequently, the miscellaneous applications, if any pending, shall also stand closed. There will be no order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

20.2.2015

gj/va