HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.25782 of 2007

O R D E R:

This writ petition is filed under Article 226 of the Constitution of India, seeking the following relief:

> "to issue an appropriate writ, order or direction, more particularly one in the nature of writ of mandamus declare the proceedings of 2nd respondent vide Proceedings No. AMCG/A&R-1/73/1995-96 dt.27-11-2007 as illegal, motivated, arbitrary, discriminatory and contrary to the directions made in W.P.No.27082 of 1995 dt.12-4-2006 and further direct the respondents not to evict the petitioner from the premises bearing No.A-1/1, Fruit Market, Gaddianaram unless the petitioner is given alternative premises in the yard."

2. Heard Sri P.Gangaiah Naidu, learned Senior Counsel, appearing for Sri N.Bharat Babu, learned counsel on record for the petitioner, learned Government Pleader for Agriculture and the learned Standing Counsel apart from perusing the material available before the Court.

3. According to the petitioner, he is holding a valid license under Section 7 (1) of the Andhra Pradesh Agricultural (Produce and Livestock) Markets Act, 1966 (hereinafter called 'the Act') and carrying on the business as commission agent in fruits at Fruit Market, Gaddiannaram. Earlier, the petitioner herein moved this Court by way of filing W.P.No.27082 of 1995, questioning the action of the Director of Marketing in not approving allotment of the premises bearing No.S/1/1 made in favour of the petitioner Fruit Company in the year 1991-92 as illegal, improper, unjust and contrary to the orders of the Government.

4. This Court, by way of an order dated 12.04.2006, disposed of the said writ petition and the operative portion of the said order reads as under:

> "While disposing of the writ petition in the manner indicated above, I deem it proper to observe that the petitioner must file the required application within seven days from today. This would necessarily mean that if the petitioner fails to file the application within seven days, the authorities of the Market Committee shall be entitled to forcibly evict it from the premises bearing No.A/1/1 in the Wholesale Fruit Market at Gaddiannaram.
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> If the petitioner makes an application within seven days, then the

same shall be considered and decided by the competent authority within a maximum period of one month. While disposing of the application, the concerned authority shall keep in view the relevant statutory provisions as well as the orders and instructions issued by the Government, which, as mentioned above, envisage the allotment of premises by way of auction. It is expected that the concerned authority will not adopt any device or mechanism which may lead to frustration of the doctrine of equality enshrined under Article 14 of the Constitution of India.

If, on a consideration of the application made by the petitioner, the competent authority decides to allot the premises by auction, then all persons similarly situated who may have been illegally permitted to occupy the premises should be given liberty to participate in the process of auction and the premises be allotted to the highest bidder.

If the petitioner is found to be the highest bidder for the premises in its occupation, then the allotment made in its favour would take effect from the date of acceptance of the bid."

5. In pursuance of the above said orders passed by this Court, petitioner herein submitted a representation on 19.04.2006, requesting for regularisation of allotment. The second respondent, by virtue of the proceedings No.AMCG/A&R-I/73/1995-96 dated 27.11.2007, passed an order, directing the petitioner to vacate the premises immediately. Questioning the validity of the said order passed by the second respondent on 27.11.2007, the present writ petition has been filed.

6. In the present writ petition, it is the grievance of the petitioner herein that in respect of the similarly placed persons, the respondent/Market Committee passed a resolution No.110 dated 28.05.2007 for regularization of their allotment. It is also the contention of the learned counsel for the petitioner that the orders passed by the second respondent are in utter violation of the principles of natural justice and contrary to the directions of this Court in W.P.No.27082 of 1995 dated 12.04.2006. It is also the case of the petitioner herein that the second respondent did not consider the representation of the petitioner dated 19.04.2006 in the light of the orders passed by this Court in W.P.No.27082 of 1995.

7. The material available before the Court clearly shows that in pursuance of the orders of this Court in W.P.No.27082 of 1995 dated 12.04.2006, petitioner herein submitted a detailed representation on 13.04.2006. A perusal of the impugned order dated 27.11.2007 clearly and manifestly discloses that the respondent authorities did neither referr to the contents of the said representation dated 19.04.2006

submitted by the petitioner nor considered the same. In the considered opinion of this Court, the impugned orders passed by the second respondent are highly unreasonable and not in terms of the orders of this Court in W.P.No.27082 of 1995. The impugned order is a non-speaking order. Therefore, this Court deems it appropriate to set aside the said order passed by the second respondent on 27.11.2007 and remand the matter for fresh consideration, in accordance with law.

8. For the aforesaid reasons, writ petition is allowed, setting aside the proceedings No. AMCG/A&R-1/73/1995-96 dated 27-11-2007 of the second respondent/Selection Grade Secretary, Agricultural Market Committee and the matter is remanded to the second respondent for fresh consideration of the representation dated 19.04.2006 submitted by the petitioner, after giving notice and opportunity to the petitioner herein. Till the said exercise attains finality, *status quo* obtaining as on today shall be maintained. As a sequel, pending miscellaneous petitions, if any, stand disposed of. No order as to costs.

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A.V.SESHA SAI, J

Date:15.04.2015

grk

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HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.25782 of 2007

Date :15-04-2015

Between:

M/s. Manjunath Fruit Company,

Fruit Market, Gaddiannaram, Hyderabad

represented by its Proprietor S.Raju.

… Petitioner

and

Agricultural Market Committee,

Fruit Market, Gaddiannaram, Hyderabad

represented by its Chairman and another.

… Respondents

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