

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION Nos.23586, 23585 AND 23589 of 2009

COMMON ORDER:

-

Heard learned counsel for the petitioners and learned Assistant Solicitor General for Central Government.

Since the issue involved in the three writ petitions is one and the same, they are disposed of by this common order.

These writ petitions came to be filed declaring the tender notice dated 08.09.2009 of the third respondent and consequential proceedings C.No.37/57/P/Resett/70/Vol.II/13243-71, dated 14.10.2009 of the second respondent as illegal and arbitrary and consequently direct the respondents to renew the lease of the lands admeasuring Ac.0.84 cents, Ac.3.69 cents, Acs.6.95 cents and Acs.2.17 cents in Survey No.287, Survey No. 289, lease No.73 and Survey No.220/1 respectively in Mulapeta Village, Santhabommali Mandal, Srikakulam District.

It is stated that the lease was granted to the forefathers of the petitioners about 70 years back and from time to time, it was renewed. In the year 2007, lease for manufacturing salt expired and the petitioners sought for renewal of the lease. Though the petitioners are alleged to have paid Rs.1,100/-, in the name of the Deputy Salt Commissioner, Chennai, the authorities did not accept the same. The second respondent vide his proceedings dated 11.05.2009, 08.05.2009 and 28.05.2009 rejected the application made by the petitioners for renewal of lease advising them to opt for arbitration against the lease cancellation order with Salt Commissioner, Jaipur. The petitioners filed an appeal before the first respondent on 23.05.2009 and 11.06.2009 respectively and the same is pending. It is stated that when the appeal is pending before the arbitrator, offering tenders in respect of the said fields would tantamount to violation of terms of lease agreement and hence the authorities requested the petitioners to withdraw their fields from the tenders. It is further stated that the second respondent without considering the proceedings of the third respondent

erroneously vide his letters issued short tender notice stating that the tenders should be submitted to the Deputy Salt Commissioner on or before 04.11.2009. Challenging the action of the second respondent in issuing tenders, the present writ petitions came to be filed.

On 02.11.2009, this Court while issuing *rule nisi*, ordered as under:

“The application submitted by the petitioner for renewal of lease is still pending. The Assistant Salt Commissioner, Kakinada, submitted a detailed Office Memorandum dated 08.09.2009, wherein it was observed that the lands are still under the occupation of the lessees and that grant of lease by inviting tenders would lead to complications.

There shall be interim stay, as prayed for.”

Learned counsel for the petitioners mainly contends that in view of the orders passed by this Court on 02.11.2009, the petitioners are in occupation of the lands in question and are manufacturing salt. It is their case that since the appeals are pending since last 7 years, the petitioners may be permitted to continue with the manufacturing of the salt, till the disposal of the appeals.

A counter affidavit came to be filed by respondent Nos.1 to 4 denying the allegations made in the writ petition. It is stated that lease expired long back and as such the question of petitioners being in possession of the property would not arise.

Learned counsel for the petitioners placed on record the proceedings of ‘mahazar’, dated 20.08.2008, issued by the Government of India, Office of the Factory Outlet, Mulapeta Slat Factory showing that the property in question is already taken possession by the respondents and that the petitioners are not in a position to obtain the same. It is further averred in the counter that no appeal is preferred by the petitioners and that the letter which is placed on record cannot be treated as an appeal. It is stated that even assuming that the said letter is treated as appeal, there is no proof to show that the said letter was infact sent and reached the first respondent.

A perusal of the record would show that as per the guidelines prescribed for renewal of lease, the petitioners have to make applications to the authorities six months before the expiry of the lease period. In the instant case, the petitioners have not submitted their renewal applications expiry of the lease period. It is to be noted that the communications were sent to the lessees

granting 15 days time for submission of renewal application, failing which, it will be considered that they are not interested in the renewal of the lease. There was no response from any of the lessees for a period of one year. Therefore, the communication issued by the respondent-authorities asking the petitioners to vacate from the said premises cannot be found fault with. In fact, the said letters were received and acknowledged by the petitioners and a copy of the Mahazar dated 20.08.2008, which was prepared at the time of taking possession of the property from the petitioners, was handed over to them. Mahazar panchanama clearly shows that the property was taken possession on 20.08.2008 and thereafter representation was made on 31.03.2009 to the Salt Commissioner, Jaipur, seeking renewal of the license. Thereafter the petitioners made a representation to the Deputy Salt Commissioner at Tamil Nadu, who in turn, advised the petitioners to make application invoking the Arbitration clause to the Salt Commissioner at Jaipur. Therefore, *prima facie*, it cannot be said that the petitioners are in possession of the property. The argument of the learned counsel for the petitioners that the appeals are pending also appears to be doubtful. If really such appeals are pending before the authorities, definitely some order would have been passed by now or a notice would have been received intimating the date of hearing of the appeal or at least the result of the appeal. But, no such communication or order is placed on record. Apart from that, though the petitioners claim to have made an appeal in the form of representation, no proof of either sending the said letter to the first respondent or an acknowledgment of receipt of such representation is placed on record. On the other hand, the learned counsel for the Central Government vehemently contended that no proceedings are pending before the first respondent and all the acts are done in collusion with the third respondent against whom disciplinary proceedings are already initiated.

Having regard to the circumstances stated above, the question of granting any relief to the petitioners, would not arise and the writ petitions are dismissed leaving it open to the petitioners to avail the remedies available under law, if any.

Consequently, miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

29.10.2015

vhb