

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.148 OF 2015

DATED: 26.02.2015

Between:

Sunkara Saraswathi Devi

... Appellant

And

The Assistant Commissioner & Executive Officer, Krishna
and others

... Respondents

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

WRIT APPEAL No.148 of 2015

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

This writ appeal has been filed by the petitioner in the Writ Petition No.12793 of 2004 against common judgment and order dated 11th June, 2014 even after having been successful before the learned Trial Judge. The writ petition has been filed questioning the action of the respondents to conduct auction of leasehold right of the property to an extent of Ac.1.81 cents, Ac.0.45 cents and Ac.0.65 cents owned by the writ petitioner in Sy.Nos.325, 316/1 and 319/1 (new Survey Nos.192, 420/1 and 421/1 respectively) respectively situated at Chataparru Village, Eluru Mandal, West Godavari District.

The primary contention of the appellant before the learned Trial Judge was that the auction was conducted without any notice to her and further without giving any opportunity of being heard. Her further contention is that respondents have no authority under law to hold auction as above. The Trial Judge accepted the plea of the appellant with a lengthy judgment and reasons, and granted the relief as prayed for. However, those reasoning are not appealed

against. Neither cross-appeal nor any cross-objection has been filed by the respondents. The learned Trial Judge has given direction asking the petitioner to pay to the 1st respondent institution the value at 12 bags per acre per year and the said value shall be fixed by the Assistant Grain Purchasing Officer having jurisdiction over the area and in case of failure to pay the said amount, the 1st respondent would be at liberty to take possession of the property, is legally sustainable or not.

We have checked up the counter affidavit filed by the respondents. No plea was taken that in the event the writ petition is allowed condition should be imposed. According to us, as rightly contended by Sri E. Manohar, learned Senior counsel appearing for the appellant, that in the name of “complete justice” as we are more often than not, swayed by this phraseology this sort of measure is not appropriate all the time. The law requires the Court to grant relief as asked for by the parties in the pleadings, unless otherwise permissible in the substantive law. We have checked up the pleadings. We do not find as rightly pointed out by Mr. Manohar, that neither of the respondents did make such claim.

We therefore hold that the aforesaid direction is totally uncalled for and without jurisdiction and accordingly we delete that portion in paragraph 20 of the impugned judgment, which starts with the words “However, keeping in view the interest of the 1st respondent will be

regarded as disobedience of this order.”, and rest of the judgment would remain as it is.

Accordingly, the appeal is disposed of. Liberty is given to the respondents to take steps in accordance with law, as may be advised consequent upon the judgment of the learned Trial Judge as modified by us. No order as to costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.

K.J. SENGUPTA, CJ

26th FEBRUARY, 2015.

SANJAY KUMAR, J

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