

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND**

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Appeal No.848 of 2016 & Writ Petition No.17802 of 2016

COMMON ORDER: (Per the Hon'ble The Acting Chief Justice Ramesh

Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the learned Single Judge in W.P.M.P.No.21891 of 2016 in W.P.No.17802 of 2016 dated 26.07.2016 directing the appellant-2nd respondent not to evict the respondent-writ petitioners from their respective shops situated at Old Market, Y.V.Street, Kadapa by suspending the operation of the notice dated 01.06.2016 issued by the appellant-2nd respondent. Some other shop owners, in the very same old market, filed W.P.No.3826 of 2007 and a learned Single Judge of this Court disposed of the writ petition with the following directions:

- a) the respondent shall make available open space of not less than Ac.1.00 with minimum facilities for establishing vegetable shops by the petitioners;
- b) as and when the place is ready for occupation, the respondent shall issue notices to the petitioners and the petitioners shall be under obligation to shift their business activity from the existing place, within a period of 30 days from the date of receipt of the notice; and
- c) after the construction of the new market complex is completed, the Corporation shall evolve modalities for accommodating the petitioners, duly holding discussions with the concerned representatives.

Thereafter, the respondent-writ petitioners filed W.P.No.14467 of 2010 and the learned Single Judge, by order dated 16.12.2013, disposed of the writ petition in terms of the earlier order passed in W.P.No.3826 of 2007 dated 10.02.2011. The order, in W.P.No.14467 of 2010 dated 16.12.2013, has

attained finality, since no appeal has been preferred thereagainst.

While matters stood thus, the appellant herein, without complying with the earlier order passed by this Court, sought to evict the respondent-writ petitioners from the subject market on the ground that the 25 year lease period had expired; and a Division Bench of this Court, by its order in W.P.No.6354 of 2009 dated 25.08.2009, had held that no lease can be extended beyond 25 years. While the declaration of law by the Division Bench would disentitle the lessees, in occupation of the shops belonging to the municipality for a period beyond 25 years, from claiming extension of their leases, the fact remains that the order passed by the learned Single Judge in W.P.No.14467 of 2010 dated 16.12.2013, a judgment inter-parties, has attained finality and the appellant herein, having suffered an order in the said writ petition, cannot now be permitted to avoid their obligations under the said order.

When the matter came up earlier, Sri S.D.Gowd, learned Standing Counsel for Kadapa Municipal Corporation, sought time to obtain instructions. Today, the learned Standing Counsel, on instructions, submits that the appellant is ready to provide Ac.1.00 of land in L.P.No.35/96 creating minimum facilities for running a vegetable market thereat; and, in terms of the earlier order and as soon as the said place is ready for occupation, notices would be issued to the respondent-writ petitioners who shall be under an obligation to shift their business activity from the existing place within a period of 30 days from the date of receipt of the notice. Learned counsel

would, however, contend that, after a new shopping complex is constructed, the Corporation intends to put the same to auction to maximise the revenues of the Corporation. It is wholly unnecessary for this Court to dwell on this aspect, as the order passed in W.P.No.14467 of 2010 dated 16.12.2013, following the order passed in W.P.No.3826 of 2007 dated 10.02.2011, merely required the Corporation, after construction of the new complex is completed, to evolve modalities to accommodate the respondent-writ petitioners.

While the order of learned Single Judge has no doubt left it to the discretion of the Corporation to evolve modalities for accommodating the respondent-writ petitioners after construction of the new market complex is completed, the said order requires them to hold discussions with the concerned representatives. The respondent-writ petitioners have not even been asked to vacate the existing premises to the new area now earmarked for establishing the vegetable market, and as the construction of the new complex has not even commenced, the question as to what sort of modalities should be prescribed is wholly pre-mature.

In view of the submissions made to this Court by the learned Standing Counsel, the notices impugned in the writ petition are set aside. Needless to state that, after the Municipal Corporation provides minimum facilities in the area now identified for establishing a vegetable market, they are entitled to issue notices to the respondent-writ petitioners to move to the newly established market, and the respondent-writ petitioners are obligated, in terms of the earlier order, to shift their business

activity to the newly identified place within a period of 30 days from the date of receipt of a copy of this order.

With these observations, both the Writ Appeal and the Writ Petition are disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

22nd September 2016
JSU



THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO



Writ Appeal No.848 of 2016 & Writ Petition No.17802 of 2016

Date: 22.09.2016

JSU