THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION NO.29969 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue writ of Mandamus declaring the action of the 2nd respondent in issuing the order, dated 02-08-2016 directing the 3rd respondent to dispose of the seized stocks of the petitioner through public action as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader representing respondents 1 to 3.

3. A perusal of the record reveals that the petitioner is the proprietor of Yoganarasimha General Stores, Madanapalle Town, Chittoor District. The petitioner had obtained licence bearing No.188/MPL/2008 to carry on the business in food grains and pulses. The licence obtained by the petitioner is valid up to 31-03-2017. While so, on 16-07-2016, the 3rd respondent visited the shop of the petitioner and seized the pulses worth Rs.49,48,500/-.

4. It is the case of the respondents that the petitioner has been carrying on the business in contravention of A.P. Scheduled Commodities Dealers (Licensing Storage and Regulation) Order, 2008.

5. The contention of the petitioner is that the provisions of A.P. Scheduled Commodities Dealers (Licensing Storage and Regulation) Order, 2008 are not applicable to the facts of the case on hand.

6. A perusal of the record reveals that 6-A proceedings are pending against the petitioner before the 2nd

respondent. Whether the petitioner has contravened the provisions of A.P. Scheduled Commodities Dealers (Licensing Storage and Regulation) Order, 2008 or not has to be decided during the course of enquiry. Pending 6-A proceedings, the petitioner herein filed a petition seeking interim custody of the stock seized. Pending 6-A proceedings, the 2nd respondent passed an order on 02-08-2016, which reads thus:

> "The Assistant Supply Officer, Madanapalle is directed to dispose the seized stocks through Public Auction after fixing the upset price prevailing in the market after giving wide publicity and submit proposals to this office for confirmation orders from the District Collector, Chittoor within 15 days from the date of receipt of this order without fail."

7. Learned counsel for the petitioner submitted that if the stock is sold in the public auction, it may cause untold hardship and financial loss to the petitioner.

8. Learned Assistant Government Pleader submitted that the 2nd respondent passed the order in accordance with law. Therefore, the writ petition is not maintainable.

9. The fact remains 6-A proceedings are pending before the 2nd respondent. If the 3rd respondent is permitted to sell the stock seized, it may cause irreparable loss to the petitioner. If the seized stock is released unconditionally, it may not be possible for the respondents to realize the same if ultimately the same is liable for confiscation or fine. The Court has to pass orders taking into consideration the financial hardship likely to be caused to the petitioner.

10. Taking into consideration the facts and circumstances of the case, the 2nd respondent is hereby directed to release the stocks to the petitioner on his furnishing bank guarantee for a sum of Rs.49,48,500/-.

11. With the above direction, the writ petition is disposed of. As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 06-09-2016.
Hsd