

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.40384 of 2016

ORDER:

Heard Mr. Ch. Madhava Raman for petitioners and the Assistant Government Pleader for Civil Supplies.

2. Petitioners challenge the order dated 08.11.2016 of respondents 4 and 5 as illegal, without authority and unconstitutional.

The operative portion of the order reads thus:

“The Claim Petition is examined. It is observed that as they have not properly explained as to why they have stored their commodities with the respondent. The claim petitioners have not been filed any documents in support of their claim that seized stock belongs to them. The claim petitioners failed to substantiate their claim. Hence, the claim of the petitioners for release of seized stock on sureties is hereby rejected.

As the stock seized is perishable in nature, the Special Deputy Tahsildar, (PDS), Gannavaram is hereby directed to hand over the seized stock to the Tahsildar, Unguturu and in turn the Tahsildar, Unguturu is hereby directed to dispose off the seized stock by conducting public auction and submit sale lists in triplicate for conformation within a week to this court.”

3. Petitioners challenge that the findings recorded by respondents 4 and 5 are untenable and virtually amount to recording findings without examining the documents relied upon by the petitioners. According to petitioners, if the seized stock is auctioned, as directed by the order impugned in the writ petition, the petitioners/agriculturists suffer irreparable loss, hardship and injury. Counsel for petitioners submits that having regard to the patent omission in the order impugned in the writ petition, the order may be set aside and claim

petition remitted to respondents 4 and 5 for reconsideration and disposal in accordance with law.

4. The Assistant Government Pleader, on instructions, submits that the petitioners are mere name lenders and it is because of that reason, in the order impugned in the writ petition, the inability of petitioners to prove their claim is recorded by respondents 4 and 5.

5. I have perused the order dated 08.11.2016. This Court is of the view that there is no reference to the details/documents relied upon by the petitioners except recording a finding that the petitioners have not properly explained why the commodities seized by respondents are to be stored. As the findings recorded are incomplete and unsustainable, the observations against the claim of petitioners in the proceedings impugned are set aside and matter remitted to respondents 4 and 5 for fresh disposal within two (2) weeks from today. The auction of seized stock is stayed for a period of two (3) weeks from today.

The writ petition is disposed of. As a sequel, the miscellaneous petitions, pending if any, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

November 25, 2016
Note: Furnish C.C. forthwith
(B/o) DSK