

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.GANGA RAO

Writ Appeal Nos.1433 and 1468 of 2017

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard Sri B.Parameswara Rao, learned counsel for the appellant in W.A.No.1433 of 2017 (respondent No.5 in the writ petition), Sri A.Srikanth Reddy, learned Standing Counsel for the appellant-Temple in W.A.No.1468 of 2017 (respondent No.4 in the writ petition), learned Government Pleader for Endowments and Sri N.Subba Rao, learned counsel for the 1st respondent-writ petitioner and, with their consent, the Writ Appeals are disposed of at the stage of admission. Both respondent Nos.4 and 5 in the writ petition have preferred these two writ appeals respectively aggrieved by the order passed the Learned Single Judge in W.P.No.29167 of 2017 dated 31.08.2017 allowing the writ petition at the stage of admission.

The 1st respondent herein filed the writ petition questioning the order passed by the Assistant Commissioner of Endowments dated 21.08.2017 rejecting his request for extension of lease in his favour in terms of Rule 8(3) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short "the Rules"). He had earlier invoked the jurisdiction of this Court, by way of W.P.No.17258 of 2017, to declare the action of the official respondents therein in conducting public auction on 29.05.2017, for grant of lease of agricultural lands belonging to the Temple, as arbitrary and illegal. He specifically relied on Rule 8(3) of the Rules to contend that, in cases where crops fail in a locality due to natural calamities, the lease of lands can be extended for a further period of one year at the same rate without enhancement of the rentals.

W.P.No.17258 of 2017 was disposed of by order dated 05.07.2017. In the said order, the learned Single Judge observed that the question whether the crops raised had failed due to natural calamities, whether the subject lands were part of the drought affected area, and whether there was water source or not, were all matters which were required to be considered and decided by the competent authority in the first instance; and, since no orders were passed on the representation of the petitioner dated 18.05.2017 seeking extension of lease, the Assistant Commissioner of Endowments should consider the representation in terms of Rule 8(3) of the Rules within a period of two weeks. The interim order granted on 25.05.2017, which was extended from time to time, was directed to be continued. Thereafter, the impugned order came to be passed on 21.08.2017.

The two grounds, on which the 1st respondent-writ petitioner's request was rejected, are that the report of the Executive Officer disclosed that the subject lands were not drought affected, as the same was ascertained from the neighbouring farmers; the notification, declaring certain mandals as drought affected mandals, was published in the earlier years also; the 1st respondent-writ petitioner had given a representation on 26.05.2017 to the Executive Officer stating that he was willing to double the lease amount, if the lease was extended in his favour; and the moment the request for extension, on enhancement of the lease amount, was made, no loss could be claimed on account of drought.

In the order under appeal, the Learned Single Judge has referred to the certificates issued by the Tahsildar, Parchur Mandal dated 23.06.2017, and the proceedings of the Deputy Executive Engineer dated 22.06.2017, to hold that the subject lands are rain fed lands; and the entire Parchur Mandal was declared as drought affected.

While it does appear that the appellant in W.A.No.1433 of 2017 (respondent No.5 in the writ petition) had entered appearance through counsel, the fact remains that no counter-affidavit was filed on his behalf. While Sri N.Subba Rao, learned counsel for the 1st respondent-writ petitioner, would contend that the writ petition was disposed of at the request of the appellant in W.A.No.1433 of 2017 (respondent No.5 in the writ petition), the order under appeal does not record this fact, and it would be wholly inappropriate for us to examine whether or not the writ petition was disposed of only because the appellant in W.A.No.1433 of 2017 (respondent No.5 in the writ petition) had requested the Learned Single Judge to do so.

Be that as it may, the question whether or not Rule 8(3) of the Rules would be attracted, conferring a right on the 1st respondent-writ petitioner to seek extension of lease for a period of one more year at the same rate applicable for the previous year, are matters which are required to be examined in the writ petition, after a counter-affidavit is filed. It is only if it is held that the 1st respondent-writ petitioner's crop, for the previous year, had failed on account of natural calamities, which would include drought, can the 1st respondent - writ petitioner claim the protection of Rule 8(3) of the Rules. Questions whether the 1st respondent-writ petitioner's crop had, in fact, failed in the previous year, whether such failure, if any, was on account of drought alone or for other reasons, and the basis on which the 1st respondent-writ petitioner made such a claim, are all matters which are required to be examined in the writ petition after a counter-affidavit is filed.

Yet another aspect, which should be taken note of, is that the Assistant Commissioner has recorded, in the order impugned in the writ petition, that the 1st respondent-writ petitioner had expressed his readiness to pay twice the last year's rentals. While this amount also is far less than the highest bid received in the auction of Rs.5,01,000/-, the

Learned Single Judge ought to have ensured that the interest of the Temple is safeguarded by directing the 1st respondent-writ petitioner to atleast abide by his own undertaking.

While Sri N.Subba Rao, learned counsel for the 1st respondent-writ petitioner, would contend that the 1st respondent-writ petitioner's signatures were obtained on blank papers, and that he had never consented to pay twice the amount, the order under appeal does not reflect any such consideration by the Learned Single Judge, nor has any finding been recorded therein that the 1st respondent-writ petitioner was induced, to offer twice the earlier bid amount, under threat or coercion. In any event, these are all matters which are also required to be examined in the writ petition after a counter-affidavit is filed.

As the 1st respondent-writ petitioner had the benefit of an interim order ever since 25.05.2017, ends of justice would be met if the order under appeal is set aside, the writ petition is restored to file, and the official respondents herein are directed, pending further orders in the WPMP, not to take coercive steps to evict the 1st respondent-writ petitioner from the subject land, on condition that he deposits Rs.2,30,000/- (Rupees Two Lakhs Thirty Thousand Only) within three weeks from today. In case, the 1st respondent-writ petitioner fails to deposit the said amount within the aforesaid period, the interim order now passed by us in the WPMP in W.P.No.29167 of 2017 shall stand automatically vacated, and it would then be open to the official respondents to take necessary steps to evict the 1st respondent-writ petitioner from the subject land. Needless to state that the observations made earlier in this order reflect only our *prima facie* view and, on a petition being filed by any of the respondents seeking vacation of the interim order, the Learned Single Judge shall consider the matter on its own merits uninfluenced by any observations made herein.

Sri N.Subba Rao, learned counsel for the 1st respondent-writ petitioner, would submit that a sum of Rs.1,15,000/- has already been paid by the respondent-writ petitioner by way of a Demand Draft dated 04.09.2017. Suffice it to make it clear that any amount paid by the 1st respondent-writ petitioner shall be given credit to, and it is only the remaining balance which the 1st respondent-writ petitioner would be required to deposit within the time stipulated hereinabove.

The Writ Appeals are, accordingly, disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M.GANGA RAO, J)

5th October, 2017

Note: Issue C.C. by 09.10.2017

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Date: 05.10.2017

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