

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN  
AND  
HON'BLE DR. JUSTICE SHAMEEM AKTHER**

**WRIT APPEAL No. 88 OF 2017**

**JUDGMENT:** (per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in WVMP.No.2168 of 2016 in WPMP.No.51741 of 2015 in W.P.No.40082 of 2015 dated 23.12.2016, whereby the learned Single Judge made the earlier interim order passed on 18.12.2015 absolute.

In the earlier order, in WPMP.No.51741 of 2015 in W.P.No.40082 of 2015 dated 18.12.2015, the learned Single Judge passed an interim order directing the respondents to grant fishing permission to the petitioner's society, pursuant to payment of the lease amount of Rs.4,30,000/- on 04.08.2015, over Magunta Subba Rami Reddy Jalasayam (Rama Thirtham Reservoir), Deverapalli Village, Cheemakurthy Mandal, Prakasam District.

On a petition being filed by the appellants herein seeking vacation of the interim order, the learned Single Judge, in the order under appeal, recorded the submission urged on behalf of the respondents that on 10.07.2015 a notice was issued asking the petitioner to pass a resolution in the General Body for taking the said tank on lease for Fasli 1424 by paying Rs.4,30,000/-; the General Body had passed a resolution on 15.07.2015, and payment was made on 04.08.2015; the 2<sup>nd</sup> respondent had stated, in the vacate stay petition, that the petitioner was intimated about payment of Rs.4,30,000/- through letter dated 02.06.2015; a copy of the said letter was not filed by the respondents; payment for Fasli 1424 was made on 04.08.2015 by the petitioner after completion of the Fasli year, and after the next Fasli year had commenced from 01.07.2015; notice was given to the petitioner on

10.07.2015 for taking leasehold rights for 1424 Fasli for Rs.4,30,000/-, which was reiterated in the subsequent notice dated 03.08.2015; when the offer of leasehold rights is made after the end of Fasli year 1424, the petitioner could not be blamed for making payment for the Fasli year 1424 on 04.08.2015; and having retained Rs.4,30,000/- the respondents could not be allowed to withhold grant of leasehold rights to the petitioner.

Fasli 1424 began on 01.07.2014 and ended on 30.06.2015. While the counter affidavit of the respondents refers to a letter allegedly sent to the petitioner on 02.06.2015, a copy thereof has not even been filed along with the counter affidavit. Learned Government Pleader for Fisheries would fairly state that there is no such letter dated 02.06.2015. It is not in dispute that the notice dated 10.07.2015 was issued to the petitioner by the Fisheries Development Officer, Ongole, calling upon them to pay the leasehold amount of Rs.4,30,000/- for Fasli year 1424, along with the resolution of the society, within one week. By the time the notice dated 10.07.2015 was issued, Fasli year 1424 had ended on 30.06.2015. This notice dated 10.07.2015 was followed by the proceedings of the Assistant Director of Fisheries, Ongole dated 03.08.2015, which refers to the note orders of the Collector and District Magistrate, Ongole dated 08.07.2015, whereby the Collector had approved the rentals for the reservoir for Rs.4,30,000/- for Fasli 1424 based on the proposal submitted by the Fisheries Development Officer, and the directions issued by the Commissioner vide Memo dated 05.05.2015. As the rentals for the Fasli year 1424 itself was finalized by the District Collector only on 08.07.2015, after the 1424 Fasli year ended on 30.06.2015, it defies comprehension as to how the petitioner can be faulted for not paying the said amount before the end of the Fasli year 1424.

The letter of the Assistant Director dated 03.08.2015 further records that the lease of fishing rights of the reservoir was issued in favour of the petitioner for Rs.4,30,000/-, and on the very next day i.e., 04.08.2015 the petitioner is said to have paid the said amount. Sri P.S.P. Suresh Kumar, learned counsel for the respondent – writ petitioner, would submit that, despite the interim order passed by this Court and despite the petitioner having paid Rs.4,30,000/- on 04.08.2015, they were not granted leasehold rights over the fishing tank either for 1424 Fasli (the one year period from 01.07.2014 to 30.06.2015) or even for the subsequent Fasli 1425 (the one year period from 01.07.2015 to 30.06.2016); and the said amount of Rs.4,30,000/-, paid by the petitioner, is still lying with the department.

While the learned Government Pleader for Fisheries would submit that the petitioner had sub-let the fishing rights to a private individual, it is not known how they could have sub-let, a non-existing lease, in favour of third parties. As, admittedly, they have not been granted any fishing right so far, the order under appeal does not suffer from a patent illegality necessitating interference in an intra Court appeal under Clause 15 of the Letters Patent.

The writ appeal fails and is, accordingly, dismissed. It is, however, made clear that this order shall not preclude the respondents from taking action for violations, if any committed by the petitioners, in accordance with law.

Miscellaneous petitions, if any, shall also stand dismissed. No costs.

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**RAMESH RANGANATHAN, ACJ**

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**Dr. SHAMEEM AKTHER, J**