

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6100 OF 2008

ORDER:

This writ petition is filed declaring the auction notification dated 10.03.2008 issued by the respondents 1 and 2 to conduct public auction in respect of the cattle market, scheduled to be held on 24.03.2008 or any other subsequent date, as illegal and arbitrary and for a consequential direction to set aside the same.

Learned counsel for the petitioner Smt. G Neeraja Reddy relying on Full Bench Judgment in W.A.No.1323 of 2003 and batch dated 07.01.2016 submits that once the market is notified under Section 29 of the A.P. Agricultural (Produce & Livestock) Market Act, 1966, (for short 'the Act') under Section 3 of the said Act, it is the petitioner market committee which has the power to conduct auction. But the respondents issued the impugned notification dated 10.03.2008 which is contrary to law laid down by this Court and also Section 29 of the Act.

In W.A.No.1323 of 2003 and batch, Full Bench of this Court held as follows:

“From bare perusal of this provision, it is clear that it would override all other laws providing for the establishment, maintenance or regulation of a market or the levy of fees therein shall apply to any market established under the Markets Act or affect in any way the powers of a market committee, in respect of such market. The provisions of Section 30 operate notwithstanding anything to the contrary contained in any other law for the time being in force. As a matter of fact, a bare reading of this provision, it is clear that it would prevail over the provisions of the PR Act.

23. On a plain reading of Section 30, there cannot be any doubt whatsoever that it would prevail over other laws or

it has an overriding effect on the provisions of the PR Act. It is well settled that in the event two conflicting provisions are operating in the same field, the doctrine of *generalia specialibus non derogant* shall apply. (See *Chandra Prakash Tiwari v. Shakuntala Shukla* (2002) 6 SCC 127).

25. “.....It is equally true that once a market area has been declared, the provisions of the Markets Act will bring within its sweep even such markets, as established by local authority.”

26. In the result, we hold that the provisions contained in Sections 104, 105 and 106 of the PR Act shall not have an overriding effect on the provisions of Market Act in view of the language employed in Section 30 thereof. In other words, the question as framed in the first paragraph of the judgment is answered in the negative.”

Following the same, the writ petition is allowed. No costs.

As a sequel, miscellaneous petitions, pending, if any shall stand closed.

12.06.2017
dv

A.RAJASHEKER REDDY, J



