

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.214 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 W.P.M.P. No. 3419 of 2017 in W.P. No.2904 of 2017 dated 30.1.2017.

By the order under appeal, the auction held, pursuant to the tenders published on 26.1.2017, was permitted to go on, and the amount was directed to be kept in a separate deposit which would be subject to further orders in the writ petition. The matter was directed to be posted after six weeks in the motion list for filing counter.

While the prayer in the WPMP refers to tenders having been published on 26.1.2017, there is a typographical error in the order under appeal and, instead of 26.1.2017, the order refers to the date of publication as 26.6.2017. The typographical error in the order under appeal does not, by itself, necessitate exercise of jurisdiction under Clause 15 of the Letters Patent.

Sri M. Venkata Raghu, learned counsel for the appellant, would submit that the subject land belongs to the appellant; he has been deprived of his right to the crop raised over the subject land; and he is being unduly harassed by the Tahsildar in this regard. On the other hand, the Learned Government Pleader for Revenue would contend that the appellant has no right over the subject land; he has not produced any documentary evidence to show that he has the tenancy right over the subject land; as these lands vest in the Government, the Tahsildar had taken action in accordance

with law; and, in compliance with the said order, auction has been conducted and the amount has been kept in deposit.

It is wholly unnecessary for us to examine the rival contentions, as the order under appeal is an interlocutory order, that too, subject to further examination after six weeks, which period would expire tomorrow. As the amount realized in the auction is said to have been kept in deposit, the question as to who is entitled to receive the deposit amount, would be examined by the learned Single Judge.

Exercise of jurisdiction in an intra-Court appeal under Clause 15 of the Letters Patent, would be justified only if the order suffers from a patent illegality. We find no such infirmity in the order under appeal. As the six weeks period, referred to in the order under appeal, expires tomorrow, it is open to the learned counsel for the appellant-writ petitioner to request the learned Single Judge to take up the writ petition for admission and grant of necessary relief.

The writ appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

6th March, 2017

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