

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

Writ Appeal No.1793 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. No.38394 of 2017 dated 20.11.2017.

The petitioner-Fisher Women Cooperative Society invoked the jurisdiction of this Court questioning the action of the Gram Panchayat in not allowing them to catch fish in five tanks which were leased out to the petitioner for the year 2016-17. While the petitioner claims to have paid Rs.70,000/- as lease rent for a period of one year, for which an official receipt was issued in their favour on 23.12.2016, it is their case that they were put in possession of the tanks only thereafter, and not prior thereto; and, therefore, the one year lease period should be computed from the date on which they were put in possession ie, from 23.12.2016 to 23.12.2017.

The contention urged on behalf of the Gram Panchayat by Sri G. Seshadri, learned Standing Counsel, is that the lease was granted for the Fasli year 2016-17 which begins on the 1st of July, 2016 and the petitioner was, therefore, required to vacate and handover possession of the subject tanks, to the Gram Panchayat, by 30.6.2017.

After the appellant-petitioner invoked the jurisdiction of this Court, a notice was issued to them by the Panchayat Secretary on

14.11.2017 asking them to vacate the said tanks within five days. The fact that the appellant-writ petitioner paid the said amount on 23.12.2016 is not in dispute.

The question whether the lease granted in favour of the appellant-writ petitioner was for the Fasli year 2016-17, or for one year from the date on which possession of the tank was handed over to the appellant-writ petitioner, is a matter which ought to have been examined in the Writ Petition, after the respondents had filed their counter affidavit. As the Writ Petition was disposed of on the basis of instructions received by the learned Standing Counsel for the Gram Panchayat, the appellant-writ petitioner was denied an opportunity of rebutting the contentions, urged on behalf of the respondents, which they would have been entitled by way of a reply-affidavit, in case a counter-affidavit had been filed. We were initially inclined to set aside the order under appeal on this short ground, and restore the Writ Petition to file and grant stay.

Sri G. Seshadri, learned Standing Counsel for the Gram Panchayat, would, however, submit that since, even according to the appellant-writ petitioner, their lease is due to expire on 23.12.2017, no useful purpose would be served in remanding the matter to the learned Single Judge and, instead, the Writ Appeal itself be disposed of permitting the appellant-writ petitioner to continue to retain possession of the subject tanks till 23.12.2017, and to handover possession thereof on 24.12.2017.

As, even according to the appellant-writ petitioner, they were put in possession of the subject tanks on 23.12.2016, the one

year period would expire on 23.12.2017. We consider it appropriate, therefore, to dispose of the Writ Appeal permitting the appellant-writ petitioner to retain possession of the said tanks till 23.12.2017, and to handover possession of the said tanks to the Gram Panchayat the next day ie, on 24.12.2017.

The Writ Appeal stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

27th November, 2017

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(GUDISEVA SHYAM PRASAD, J)



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