

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Writ Appeal No. 267 of 2018

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. 3698 of 2018 dated 6.2.2018.

The petitioners, two in number, were running a slaughter house in the existing meat and fish market of Khammam Municipal Corporation at Wyra Road at Khammam. They invoked the jurisdiction of this Court aggrieved by the notice dated 25.1.2018 whereby they were informed that the slaughter house was in a dilapidated condition, and that the existing slaughter house should be shifted to V. Venkatayapalem in Survey No. 290/2 and to the site allotted at III town area immediately.

The petitioners' grievance in the Writ Petition was that, though the proceedings dated 25.1.2018 is styled as a notice, it is, in effect, an order directing them to shift to the newly identified place. The complaint in the Writ Petition is of violation of principles of natural justice in as much as the petitioners' reply to the show cause notice was not considered before the impugned order came to be passed.

In the order under appeal, the learned Single Judge directed the respondents to pass orders within a week, and directed status-quo to be maintained. Since the appellant-writ petitioners were granted relief by the learned Single Judge, we enquired from Mrs. S. Nanda, learned counsel for the appellants-writ petitioners, as to how an appeal would lie against such an order. Learned counsel, however, drew our attention to certain observations in the order under appeal which may influence the Commissioner, Khammam Municipal Corporation while considering the reply submitted by the appellant-writ petitioners.

Since the learned Single Judge had directed the Commissioner, Khammam Municipal Corporation to pass an order after considering the reply submitted by the appellants-writ petitioners on 30.01.2018, it was wholly unnecessary for him to examine the validity of the order, impugned in the Writ Petition, on its merits.

We consider it appropriate, therefore, to modify the order under appeal, and direct the Commissioner, Khammam Municipal Corporation to consider the appellant-writ petitioners' reply dated 30.01.2018, and pass orders thereupon in accordance with law, within two weeks from the date of receipt of a copy of this order.

As the learned Single Judge has directed maintenance of status-quo, the said order of status-quo shall continue to remain in force till orders are passed, and in accordance with law, by the Commissioner. Needless to state that the order, which the Commissioner, Khammam Municipal Corporation would now be required to pass, shall be passed without being influenced either by the observations made in the order under appeal or in the order now passed by us. It is also made clear that, after an order is passed afresh, it is open to the Commissioner, Khammam Municipal Corporation to take further action in accordance with law.

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

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

22nd February, 2018
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THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI



Writ Appeal No. 267 of 2018

Date: 22.2.2018

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