

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal Nos.691 & 697 of 2018

Common Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

These two appeals are preferred, under Clause 15 of the Letters Patent, against the interlocutory orders passed in two Writ Petitions i.e in I.A. No. 1 of 2018 in W.P. No. 12338 of 2018, and I.A. No.1 of 2018 in W.P. No. 2825 of 2018.

The petitioners in W.P. No. 2825 of 2018 invoked the jurisdiction of this Court, under Article 226 of the Constitution of India, seeking a mandamus to declare the action of the respondents, more particularly the Gram Panchayat, in issuing proforma notice to the petitioners vide notice dated 12.1.2018, and in trying to dispossess the petitioners from their respective sheds situated at Narayankhed Village and Mandal, Sanga Reddy District, without considering their reply dated 23.1.2018, as illegal, arbitrary and in violation of Articles 14, 21 and 300-A of the Constitution of India besides violating the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. A consequential direction was sought to set aside the proforma notice.

By the orders under appeal, the learned Single Judge directed that, on the respondent-writ petitioners depositing the monies as demanded in the notice within one week, no further steps should be taken to dispossess them from the subject premises; and the petitioners should continue to pay the existing lease. In so far as the Wakf Board is concerned, the learned Single Judge observed that they were at liberty to take appropriate steps, independently, in accordance with law.

Sri G. Narender Reddy, learned Standing Counsel for the Gram Panchayat, would draw our attention to an earlier order passed with

respect to the very same premises wherein the learned Single Judge, in his order in W.P. No. 41401 of 2017 dated 21.12.2017, observed that, if the petitioners were eligible, they were always at liberty to participate in the public auction, provided they pay all the arrears of rent, if any; and also furnishing an undertaking that they would forthwith vacate on allotment of the subject shops to the highest bidders on the auction process being finalized.

In the affidavit filed by them, in support of W.P. No. 2825 of 2018, the petitioners had claimed that they and their forefathers were carrying on business in the street from generation to generation, in a corner open place belonging to the Wakf Board; they were eligible to do their petty business; and the impugned notice is in violation of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereinafter referred to as “the Act”).

While Sri G. Narender Reddy, learned standing Counsel for the appellant-Gram Panchayat, would submit that, since Section 2(c) of the said Act defines “**local authority**” to mean only a Municipal Corporation or a Municipal Council or a Nagar Panchayat or the Cantonment Board, it is only the street vendors, located in such Local Authority, who are entitled for the protection of the Act. On the other hand, Sri M.A.K. Mukheed, Learned Counsel for the respondent-writ petitioners, would draw our attention to Section 1(4) of the Act to submit that the provisions of the Act are inapplicable only to the Railways under the Railways Act, and the Act would apply to all local bodies including the subject Gram Panchayat.

This question has not been examined by the learned Single Judge while passing the interim orders under appeal, and it would be wholly inappropriate for us to take upon ourselves the task of deciding whether or not the provisions of the Act would apply to the appellant-Gram

Panchayat, more so, as the substantive Writ Petitions are still pending adjudication before the learned Single Judge. It is always open to the appellant herein to file their counter-affidavit in the Writ Petitions, and seek vacation of the interim orders. We see no reason, therefore, to exercise jurisdiction, under Clause 15 of the Letters Patent, to interfere.

Leaving it open to the appellant herein to file their counter-affidavits in the Writ Petition, and seek vacation of the interim orders, the Writ Appeals fail and are, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

11th June, 2018

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