

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS. JUSTICE J. UMA DEVI

W.A.NOs. 876 & 877 OF 2018

COMMON JUDGMENT:

(Per 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 by the learned Single Judge in I.A.Nos. 1 and 2 of 2018 in W.P.Nos. 14581 and 12980 of 2018 dated 25.4.2018 and 18.4.2018 respectively.

This case has had a chequered history. The respondents-writ petitioners had earlier filed W.P.Nos. 40484 of 2017 and 2834 of 2018 questioning the validity of the Rules made under G.O.Ms.No. 54 and 84 dated 21.8.2015 and 9.11.2017 respectively. They had contended before this Court that reduction in price from Rs.200/- to Rs.100/- per cubic metre of sand decast from their patta lands, without transportation charges, was arbitrary and illegal. The petitioners' contention, in the writ petitions filed by them earlier, was that since they had submitted their applications, for de-casting sand, before the Rules notified in G.O.Ms.No. 84 dated 9.11.2017 came into force, they were entitled to be paid Rs.200/- per cubic metre.

In its order dated 8.2.2018 a Division Bench of this Court had recorded the submission, urged on behalf of learned Additional Advocate General by the Learned Special Government Pleader, that all the 13 pattadars, in those two Writ Petitions (who are the very same pattadars who have filed the present writ petitions wherein the orders under appeal were passed), would be

paid in terms of G.O.Ms.No. 54 dated 21.8.2015, as permission was granted to them, by the District Level Sand Committee, on 21.3.2017 long prior to the amendment of the Rules notified in G.O.Ms.No. 84 dated 9.11.2017; and since, in terms of G.O.Ms.No. 54 dated 21.8.2015, it is the Telangana State Mineral Development Corporation which would excavate the sand and transport the same, the sum of Rs.50 per cubic metres, which was hitherto being paid to the pattadars towards the expenditure incurred by them for excavation and transportation of sand, would no longer be paid.

In its order in W.P.Nos. 40484 of 2017 and 2834 of 2018 dated 8.2.2018, the Division Bench observed that the mere fact that the Petitioners had entered into an agreement would not disable them from questioning the validity of the Rules. Both W.P.Nos. 40484 of 2017 and 2834 of 2018 are still pending on the file of this Court. Curiously though an agreement was entered into, during the pendency of W.P.Nos. 40484 of 2017 and 2834 of 2018, on 24.1.2018, the respondents-writ petitioners have not been able to decast sand from their patta lands, though more than five months have elapsed thereafter. While it was initially contended before the learned Single Judge, by the appellants herein, that the pattadars were required to identify the area through which vehicles transporting the decasted sand could pass, Learned Special Government Pleader later agreed that, if one month's time is granted to them to de-cast sand, they would do so. The learned Single Judge was, however, not impressed with the said submission, and directed the District Collector and Chairman, District Level Sand Committee, Kothagudem and the Assistant Director of Mines and Geology Kothagudem to permit the writ

petitioners to sell the de-cast sand at Rs.400/- per cubic metre pending disposal of the Writ Petitions.

While the Learned Special Government Pleader would contend before us that the order of the learned Single Judge would enable the respondents-writ petitioners to contravene the agreement, and sell the de-casted sand at Rs.400/- per cubic metre, the Learned Counsel for the respondents-writ petitioners would submit that the agreed rate of Rs.200/- per cubic metre was fixed as it is the Telangana State Mineral Development Corporation Limited which would be required to incur the cost of de-casting sand, and its transportation; and, in such circumstances, the learned Single Judge had permitted the respondents-writ petitioners to sell the de-casted sand at Rs.400/- per cubic metre, as the cost of de-casting the sand, and in transporting the same, would be more than Rs.200/- per cubic metre.

Before the learned Single Judge, the appellants sought one month's time to de-cast sand lying in the respondents-writ petitioners' patta lands. It is not in dispute that sand is yet to be de-cast from the subject patta lands, even though more than 2 ½ months have elapsed after the order under appeal was passed. As the Learned Special Government Pleader contended that failure of the appellants to de-cast sand, and transport the same, is because of the interim order under appeal, we asked him to ascertain whether the appellants would de-cast the sand and transport the same atleast within one week from now. Learned Special Government Pleader, on instructions, would submit that the appellants would not be able to do so.

The requirement under the Rules is for the Telangana State Mineral Development Corporation Limited to de-cast sand and transport the same from the patta lands. If, as is now contended before us by the Learned Special Government Pleader, that the respondents-writ petitioners may be directed to de-cast sand, it would only mean that, on the appellants' own showing, the order of the learned Single Judge does not suffer from a patent illegality necessitating interference in proceedings under Clause 15 of the Letters Patent.

Prima facie, we find considerable force in the submission of Sri K. Durga Prasad, learned counsel for the respondents-writ petitioners, that the respondents-writ petitioners have been singled out for adverse treatment solely on the ground that they had invoked the jurisdiction of this Court earlier; and the appellants-authorities are bent upon denying them their right to have the sand, in their patta lands, removed. In the facts and circumstances of the present case, we see no reason to agree with the submission of the Learned Special Government Pleader that the order of the Learned Single Judge suffers from a patent illegality warranting our interference under Clause 15 of the Letters Patent. We may not be understood to have held that, in every case the pattadars should be permitted to de-cast sand from their patta lands and sell the same at Rs.400/- per cubic metre. It is in the background of the present case where the respondents-writ petitioners had invoked the jurisdiction of this Court earlier, despite which sand in their patta lands is yet to be de-cast, that we refrain from interfering with the order under appeal. Suffice it make it clear that, in case the appellants herein seek vacation of

the interim orders, the learned Single Judge shall examine the rival contentions on its merits, uninfluenced by any observations in the order now passed by us.

Subject to the above observations, the writ appeals fail and are, accordingly, dismissed. Miscellaneous applications, if any pending, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

J. UMA DEVI, J

Dt.2.7.2018
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