

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL No.990 OF 2018
&
I.A.Nos.4 AND 5 OF 2018

COMMON JUDGMENT: *(Per the Hon'ble Si Justice S.V.Bhatt)*

Heard Mr.K.S.Murthy for Mr.Marella Radha for appellant/third party, Mr.G.Vidya Sagar, learned Senior Counsel for 6th respondent herein/writ petitioner and the learned Government Pleader for respondents 1 to 5.

2. The appellant/third party is the registered union of workers in 6th respondent/mill. The 6th respondent filed writ petition for a writ in the nature of Mandamus directing respondents 4 and 5 herein to provide protection to the factory of 6th respondent, and for shifting the machinery, raw material, semi-finished, un-finished and finished goods to other jute mills situated at Eluru, Kotturu (near Eluru), West Godavari District.

3. The learned Single Judge upon hearing the parties before him granted the following relief:

“Having regard to the facts and submissions and considering the fact that the goods are perishable after a considerable time and may not be useful after lapse of time, the Writ Petition is ordered directing the respondents 3 & 4 to provide police protection to the petitioner factory for shifting of raw material – finished, semi-finished and unfinished goods, from the petitioner factory premises to other jute mills, situated at Eluru and Kothur (near Eluru) of West Godavari District, at the expense of the petitioner”.

Hence, the writ appeal at the instance of the Union, a third party to the writ proceedings.

4. Mr.K.SMurthy, appearing for appellant, contends that the order under appeal is taken without impleading proper and necessary parties. The 6th respondent deems it appropriate to implead the appellant herein in O.S.No.178 of 2016 on the file of the II-Additional District Judge, Guntur, wherein a conditional order of injunction was passed and without implementing the conditional order, and withdrawing the suit, the instant writ petition is filed. The police protection if is provided, the workers of appellant union will not be in a position to recover their lawful and statutory dues from the 6th respondent, for the valuable property is allowed to go out of the factory premises. He further submits that pending adjudication of all the disputes, police protection ought not to be given to the 6th respondent, particularly for the purpose of shifting or removing machinery, raw material, semi-finished and finished goods to other jute mills.

5. Mr.Vidya Sagar contends that the writ prayer is not granted as it is but the learned Single Judge by using his discretion granted police protection to the extent of removing raw material, semi and finished goods from the factory premises. The plant and machinery which has substantial value is still available on the factory premises; the members of appellant union cannot take law into their hands, and prevent the normal course of activities undertaken by the 6th respondent. The raw material, goods etc., if are not removed and since are perishable, the 6th respondent suffers huge financial

loss. He further submits that to the extent of statutory and legal claims, the remedies available in labour and industrial law is not persuaded by the Union. He prays for dismissing the appeal.

6. We have perused the record and noted the submissions of both the parties. We are of the view that the appellant though is not impleaded as one of the respondents, the learned Single Judge has weighed the totality of circumstances and restricted the police protection for movement of raw material, semi finished and finished goods which are perishable. The plant and machinery, and other things of 6th respondent continue to remain in the same premises. The appellant if could establish a right in the nature of lien towards the claim of any amount or dues payable by 6th respondent, then such right ought to have been worked out under the labour and industrial laws. Physical resistance is perceived by 6th respondent, hence, police protection is sought for hassle free transport of the goods referred to above and also prevent breach of law and order problems in the movement of goods etc.

7. We are satisfied that the order under appeal does not warrant interference of this Court under Clause 15 of the Letters Patent, as the facts are rightly appreciated and to the extent required, discretion is exercised in granting the relief in the order under appeal.

8. The writ appeal is dismissed. I.A.No.4 of 2018 is filed for suspending the order dated 23.04.2018 in W.P.No.10681 of 2016 and I.A.No.5 of 2018 is filed for suspending the order dated 12.10.2018 in

C.C.No.2273 of 2018. Since the writ appeal is dismissed, no separate orders need be passed in these interlocutory applications. Hence, I.A.Nos.4 and 5 are dismissed. The appellant is entitled to work out remedies for suitable orders as are available in law before the Court of competent jurisdiction. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, stand closed.

THOTTA THIL B. RADHAKRISHNAN, CJ

08th November, 2018

Lrkm

S.V.BHATT, J

