

HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE THE ACTING CHIEF JUSTICE
RAGHVENDRA SINGH CHAUHAN**

AND

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.A.No.321 of 2019

AND

W.P.No.6295 of 2019

Date: 15.04.2019

Between:

M/s. Suvidha Petrochemicals Private Limited

...Appellant/petitioner

and

Greater Hyderabad Municipal Corporation,
Rep. by its Commissioner,
Lower Tank Bund Road,
Hyderabad and another

...Respondents

Counsel for the appellant : Mr. J. Prabhakar

**Counsel for the respondentS: Mr. Sampath Prabhakar Reddy
Standing Counsel for GHMC**

The Court made the following:

Common Judgment: (per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)

M/s. Suvidha Petrochemicals Private Limited, the appellant, is aggrieved by the order dated 27.03.2019 passed by a learned Single Judge in I.A.Nos.1 and 2 of 2019 in W.P.No.6295 of 2019, whereby the learned Single Judge has granted stay in favour of the appellant and directed the appellant to pay Rs.4,00,000/-, in instalments, as under:

“(i) On payment of Rs.1,00,000/- within two weeks from today, the locks/seal that have been put to the petitioner’s premises, shall be removed by the respondent authorities.

(ii) Within two weeks from the date of payment of first instalment of Rs.1,00,000/-, the petitioner shall pay the second instalment of Rs.1,00,000/-.

(iii) Within four weeks from the date of payment of the second instalment, the petitioner shall pay the third instalment of Rs.2,00,000/-.”

Mr. J. Prabhakar, the learned counsel for the appellant, submits that instead of directing the appellant to pay part of the interest as well, only 50% of the arrears should be directed to be paid by the appellant. In fact, the appellant is willing to pay 50% of the arrears i.e., 50% of Rs.5,00,000/-. Thereafter, according to the learned counsel, the appellant should be given an opportunity of hearing by the respondents to raise all its pleas before them.

Mr. Sampath Prabhakar Reddy, the learned standing counsel for the respondents, claims that the respondents are entitled to the part of the interest amount as well as the penalty as mentioned in the notice dated 02.01.2019.

Therefore, the learned standing counsel is not agreeable to the proposal made by the learned counsel for the appellant.

Heard the learned counsel for the parties, and perused the impugned order.

Since the appellant is questioning the very right of the Deputy Commissioner, GHMC, to issue the notice, as the appellant claims that the land does not belong to it, but belongs to its landlord, the very validity of the notice is under challenge. Since the appellant is willing to pay 50% of the arrears i.e., 50% of Rs.5,00,000/-, in the interest of justice, it would be fair enough to both the parties to direct the appellant to pay 50% of Rs.5,00,000/- within a period of six weeks from the date of the receipt of the certified copy of this judgment. The learned counsel for the appellant submits that Rs.1,00,000/- has already been paid by the appellant. Therefore, only the remaining amount of 50% of Rs.5,00,000/- needs to be paid by the appellant. In case the said amount is paid by the appellant, the respondents are directed to give an opportunity of hearing to the appellant, and to decide whether any amount is payable by the appellant or not?

Needless to say that in case any amount is due from the appellant, the respondents shall be entitled to receive the interest on the said amount, and if permissible by law, to impose a penalty on the appellant. Hence, the interest of both the parties would be safeguarded in such a scenario.

The learned standing counsel for the respondents submits that assessment has already been done. Therefore, the appellant would be free to challenge the validity and veracity of the said assessment before the respondents during the time of personal hearing.

Therefore, the order dated 27.03.2019 passed by the learned Single Judge in I.A.Nos.1 and 2 of 2019 in W.P.No.6295 of 2019 is modified by directing the appellant to pay 50% of Rs.5,00,000/- within six weeks from the date of receipt of the certified copy of this judgment; the respondent is directed to give an opportunity of hearing to the appellant within a period of four weeks thereafter.

With these directions, the order dated 27.03.2019 stands modified as indicated hereinabove. The writ appeal stands disposed of accordingly.

Since complete directions have been given by this Court, W.P.No.6295 of 2019 also stands disposed of.

As a sequel, Miscellaneous Petitions, pending if any, shall stand closed. There shall be no order as to costs.

(RAGHVENDRA SINGH CHAUHAN, ACJ)

(A.RAJASHEKER REDDY, J)

Date: 15.04.2019
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