

In The High Court of Judicature, Andhra Pradesh, At Hyderabad.

This day, the Twenty Fourth day of June
One Thousand Nine Hundred and Ninety Seven

PRESENT

The Honourable Mr. Justice B. Subhashan Reddy /
And

The Honourable Mr. Justice. K. B. Siddappa

WRIT APPEAL NO. 7598 ~~7598~~ and 760
OF 1988

(Writ Appeals under Clause 15 of the Letters Patent
against the order dated: 1-3-88 in WP No. 18101/1987 and 18106/87
jointly on the file of the High Court.)

BETWEEN:-

(C.T. on Appellate sheet, attached)

...Appellant

...Respondent.

FOR THE APPELLANTS : Mr. G. V. Krishna Murthy, Advocate
in both Appels

FOR THE RESPONDENTS : The Govt. Pleader for Industries.
in both

FOR THE RESPONDENT :

THE COURT DELIVERED THE FOLLOWING JUDGMENT:-

WRIT APPEAL Nos. 759 and 760 of 1988

ORAL COMMON JUDGMENT : (per B. SUBHASHAN REDDY, J)

These two Writ Appeals are connected and they emanate from the lease transactions inter se the appellants and the Government pertaining to the Industrial Area, Azamabad, Hyderabad.

When the premium and the ground rent were sought to be escalated by issuance of Memo No. 1022/IF-Cell/84-1, dated 19-12-1984 followed by another Memo No. 1046/IF-Cell/79-21, dated 15-10-1985, they were questioned before this Court on the ground of arbitrariness and also violation of principles of natural justice.

Learned single Judge has held that the writ petitions are not maintainable for the reason that lease transactions are contractual in nature governed by the common law remedy. ^{plead} Insofar as the principles of natural justice is concerned, learned single Judge held that the same is inapplicable for the reason that it is a lease transaction and the question of issuing any notice for hearing does not arise.

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The other questions as to whether the ground rent can be escalated including the premium and if they are to be escalated, what is the reasonable quantum, are pure questions of fact having regard to the fact that several circumstances have to be taken into consideration, which may have to be culled-out only after adduction of evidence, both oral and documentary. Even if we do not agree with the learned single Judge that the power of this Court under Article 226 of the Constitution of India cannot be invoked, in view of the necessity of fact finding to resolve the dispute, the common law remedy has to be invoked. It is needless to mention that all such questions which can be raised, can be raised by the parties before the common law court and the Civil Court will adjudicate all such contentious issues by framing them as triable issues. In so far as the writ appellants against whom there is a clause operating in the lease deeds for escalation of premium and ground rent, they may have to approach the Civil Court, if they so wish

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and enabling them to do so, the respondents are directed to maintain status-quo for a period of 3 months from today, so that a notice can be issued under Section 80 C.P.C. for the purpose of institution of the suit seeking necessary reliefs. Such of those writ appellants against whom there is no clause operative for escalation either of premium or ground rent, they are at liberty to invoke the civil Court's jurisdiction as and when the Government takes decision in accordance with Clause 3(e) of Memo No.1046/IF-cell/79-21, dated 15-10-1985. We make it clear that as against such of those appellants against whom there is no clause operative for escalation, status-quo shall be maintained by the respondents for a period of 3 months from the date of such decision as may be taken by the Government for escalation of either premium or ground rent.

With the above directions the Writ Appeals are disposed of. No costs.

Sd/- *D.V. Subramanyam*
Jr./Dy. REGISTRAR

prk
Office to despatch
/BO/

TRUE COPY
SECTION OFFICER

To

- 1 The Secretary Small Scale Industries Industries Dept,
Secdariat, Hyderabad
- 2 The Secretary Commissioner of Industries, Govt. of A.P., Hyderabad
- 3 The General Manager Industries Dept, Hyderabad, Hyderabad
- 4 Sec to the Govt Pleader for Industries, High Court of A.P. (Govt)
- 5 2 c.d copies
- 6) 2 c.d for L.C.M. & A

Between :- 1. B. Rajendra Oil Mill & Refinery, rep: by
its Managing Partner A.P. Aggarwal

2. Aggarwal Industries, rep: by its Partner A.P. Aggarwal

3. Grand Castings, rep: by its Prop: S.V. Rammiah

4. Annapurna Industries rep: by its Manager, Sri Hari

5. Biking Food Products rep: by its Partner S. Sanyasubramanian

6. L.B. Industries, rep: by its Prop: B. Balachandram

7. ~~Noidha Pradesh~~
A.P. Chemical Co. rep: by its Partner R.S. Patel

8. Hyderabad Chemicals, rep: by its Manager, R.S. Desai

9. Mather & Co, rep: by Amiswala

10. Ram Chemicals, rep: by R. Gupta

11. Rammam Machineries Factory, rep: by
Syed Osman Ali

12. Latha Iron Castings rep: by Mahedi

13. Natural Paints & Varnish Works, rep: by
its Partner Kishan Kotak

14. Centon India Engineering Co. rep: by its Partner
Subodh Desai

15. Meera Industries, rep: by its Partner Vinod Desai

16. Kapadia Oil Mills & Refinery rep: by its K.S. Krishnan

17. Phoenix Pharmaceuticals, rep: by its Managing Partner
M.B. Raghunath

18. Gupta Steel Wire Industries, rep: by its Prop: R.K. Kanodia

19. Sri Vijay Industries, rep: by its Partner L.N. Rathi

20. Sadanand Engineering Works, rep: by its Partner Vidyanand

21. Sri Venkateswara Non-Ferrous Foundry, rep: by the Partner A.C. Kothari
22. Vishwakarma Stainless Steel Works, rep: by Vinod Rai Shuk
23. Hind Metal Industries rep: by the Partner P.K. Baglani
24. Indian Chemical & Pharmaceutical Works, rep: by the Partner ^{Managing} ~~Partners~~
- T. Krishna Murthy
25. Gunder Engineering Co. rep: by the Manager Ananta Desai
26. Soham Engineering Company rep: by the Prop: Vinod Desai
27. Vishajeet Casting and Engineering Works, rep: by the Partner Satish Chandra Moh
28. Siva Datt Rai Bhosanal, rep: by Ananta Desai
29. Biological E. Ltd., rep: by the Managing Director Dr. Vijaya Kumar Datta
30. V.S.T. Industries Ltd., rep: by F. Rahman

Appellant in
WA No. 759/88
(Appellants in WP
No 1801/88 on the
file of the High Court)

WA No. 760/88

B. Azamabad Industries Association, rep: by the Honorary Secretary Sri G.L. Sanghi
And

1. The Secretary, Small Scale Industries, Industries Dept, Hyderabad
2. The Commissioner of Industries, Govt of AP, Hyderabad
3. The General Manager, Industries Dept, Hyderabad

Appellant
(Appellants in WP
No 1810/88 on
the file of the High Court)

Respondents in both
Appeals
(Respondents in WP)

HIGH COURT

24-6-77

JUDGMENT

WA 759 & 760/88

Disposing of the WA

without GDS.

IN THE HIGH COURT OF JUDICATURE ANDHRA PRADESH AT HYDERABAD

FRIDAY THE FIFTEENTH DAY OF APRIL
ONE THOUSAND NINE HUNDRED AND NINETY FOUR

PRESENT

THE HON'BLE MR. JUSTICE S. PARVATHA RAO

WRIT PETITION MISC. PETITION No. 8650 of 1994.

Between:-

M/s Viswajit Castings &
Engineering Works,
owned by M & M Associates Trust by
Trustee Satish Modi

S/o Manilal Modi,
Plot No. 26/2, Industrial Area,
Azamabad, Hyderabad.

-Petitioner/Petitioner
in WP No. 7049/94 on the
file of the High Court)

And

1. State of AP. rep by its Chief Secretary,
Secy. Hyderabad.
2. Competent Authority and the Commissioner
of Industries, Chirag Ali Lane, Hyderabad.

-Respondents/
(Respondents in do)

Petition U/s 151 of CPC praying that in the circumstances stated in the affidavit filed in the writ petition, the High Court will be pleased to issue an order directing the stay of all proceedings by way of enforcement of the provisions of A.P. Act 15 of 92 and the letter passed by the Respondent No. 2 No. 719/B-3/IAA/94 dt. 9-3-94 in regard to the land in plot No. 26/2 of the petitioner in Industrial and Azamabad Hyderabad pending W.P. No. 7074/94 on the file of the High Court.

ORDER:- The petition coming on for orders upon perusing the petition and the affidavit filed in the writ petition and upon hearing the arguments of Mrs. C. Jayagree Sarathy Advocate for the petitioner and of the Govt. Pleader for Industrial taking notice for the Respondents No. 1 and the requesting two weeks time for filing counter IT IS ORDERED that notice do issue to the Respondents herein to show cause why this application should not be complied with and IT IS FURTHER ORDERED that all further proceedings pursuant to the impugned notice in Letter No. 719/B3/IAA/94 dt. 9-3-94 in regard to the land in Plot No. 26/2 of the petitioner in the Industrial area Azamabad, Hyderabad be and hereby are stayed pending further orders on this petition.

Note: The receipt of this order will be deemed to be the receipt of notice in the case. The case will be taken up for hearing after three weeks from the date of this order.

Sd/ B.Y.N. SASTRY
ASST. REGISTRAR.

FOR ASST. REGISTRAR.

TRUE COPY::

TO

1. The Chief Secretary state of A.P. Secretariat, Hyderabad, (BY RPAD)
2. The Competent Authority and the commissioner of Industries
Chiragali Lane, Hyderabad.
3. 2 C.Cs to Govt. Pleader for Industries High Court of A.P. (OUT)
4. 1 spare copy.

Dt. 15-4-1994.

ORDER:-

W.P.M.P. No. 8650 of 1994.

in

WP No. 7074 of 1994.

Interim stay and notice.