

Zila Parishad, Bhandara

Vs

Agricultural Produce Market Committee and Others

Civil Appeal No. 785 of 1972

(C. A. Vaidialingam, P. Jagmohan Reddy, K. K. Mathew JJ)

30.03.1972

JUDGMENT

VAIDIALINGAM, J. -

1. This appeal, by special leave, is against the order, dated February 28, 1972, of the Bombay High Court (Nagpur Bench) in Special Civil Application No. 223 of 1972.
2. As the order appealed against is an interlocutory order, it is not necessary to refer in any great detail to the circumstances under which the writ petition has been filed in the High Court as well as the defence raised on behalf of the respondent. It is enough to state that the appellant in the writ petition filed by him under Article 226 of the Constitution prayed for quashing the notification, dated December 9, 1971, issued by the Director of Agriculture Market, Poona-1, purporting to be issued under Sections 3 and 4(3) of the Maharashtra Agricultural Produce Marketing Act, and for certain other consequential reliefs. Pending the said writ petition, the appellant prayed for an interim order prohibiting the respondents herein from enforcing the said notification and from interfering with the rights and properties of the appellant in respect of the Public Market at Amgaon, Gandia. The appellant had already challenged another notification, dated May 17, 1961, in Special Civil Application No. 222 of 1970, which was pending in the High Court.
3. In its order, dated February 28, 1972, the High Court issued notice in the main writ petition to the respondents and directed that Special Civil Application No. 223 of 1972 will be heard along with Special Civil Application No. 222 of 1970. Regarding the prayer for interim orders, the High Court directed the appellant to deposit Rs. 80,000/- to cover the period from December 9, 1971 to March 31, 1972, in State Bank, Bhandare. The appellant was also allowed to recover the current year's auction amount from the contractor. The order proceeds to state that there will be no interim order regarding the period after April 1, 1972, and that the prayer for interim injunction is rejected.
4. The main contention of Mr. C. K. Daphtary, learned counsel on behalf of the appellant, is that the order of the High Court is very ambiguous and that after having directed the appellant to deposit such a large amount of Rs. 80,000/-, it should have granted the interim reliefs asked for.
5. Though, normally this Court does not interfere with the interim directions given by the High Court during the pendency of the main proceedings, still in the particular circumstances of this case, this Court considered it fit to grant special leave. But even a reading of the order makes it clear that there is no indication as to what purpose was sought to be served by the appellant being made to deposit the amount mentioned therein, if the High Court was not granting any interim relief. As mentioned earlier, there is a direction given to the appellant to deposit certain amount, but at the

same time interim relief after April 1, 1972, has been rejected.

6. On behalf of the respondents, it has been stated that the order of the High Court will have to be read with certain other proceedings which were either pending or have been disposed of by the High Court.

7. In pursuance of the order of this Court, dated March 13, 1972, the appellant has deposited the sum of Rs. 80,000/- in State Bank, Bhandara.

8. As mentioned earlier, it is not necessary for us to go into any great detail excepting to give the following directions in modification of the order of the High Court.

9. Pending the disposal of Special Civil Application No. 223 of 1972 by the High Court, the Notification, dated December 9, 1971, will stand stayed only in respect of the cattle market, provided, the appellant complies with the following conditions :

(1) The appellant will deposit in the High Court of Bombay (Nagpur Bench), within one month from today, the entire realisations that may have been made by it in respect of the agricultural produce from April 4, 1968 to March 31, 1972;

(2) The appellant will deposit in the Bombay High Court (Nagpur Bench) the amounts realised by it in respect of the auction held regarding the cattle market for the year 1972-73. This deposit is to be made within two weeks of the realisation of the amount by the appellant; and

(3) The appellant will arrange to withdraw the amount of Rs. 80,000/- already deposited in the State Bank, Bhandara as per order of this Court, dated March 13, 1972, and deposit the same in the Bombay High Court (Nagpur Bench) within two weeks from today.

The first respondent will be entitled to withdraw on furnishing security to the satisfaction of the Registrar of the Bombay High Court (Nagpur Bench) the amounts mentioned in clauses (1) and (3) above. Regarding the amounts covered by clause (2) above, parties are at liberty to apply to the High Court for suitable direction regarding the withdrawal of the amount deposited in the High Court.

10. Learned counsel for both the parties are agreed that there must be a very early disposal of writ petitions Nos. 222 of 1970 and 223 of 1972 in the High Court. The High Court, we dare say, will give suitable directions in this behalf and give both the petitions a very early and expeditious disposal.

11. It is made clear that in case the appellant does not succeed in the write petitions Nos. 222 of 1970 and 223 of 1972, the first respondent will be entitled to the amounts referred to in the earlier part of the judgment, subject of course to any orders regarding stay that may be passed by the High Court and any orders passed by this Court, if the matter is brought here.

12. The order of the High Court, dated February 28, 1972, is accordingly modified as indicated above, and the appeal dismissed of accordingly. There will be no order as to costs.

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