

[3418]

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE SEVENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT APPEAL NO: 1258 OF 2024

Writ Appeal under clause 15 of the Letters Patent Filed Against the order Dated-30/09/2024 in writ petition No.41965 of 2022. on the file of the High Court.

Between:

Sri Venkateshwara Rice Mill, Addakal village and Mandal, Mahabubnagar District, Rep. by Managing Partner Sri K. Narender Reddy, S/o. K. Venkat Reddy, aged about 65 years, Occ- Managing Partner of petitioner rice mill, R/o. Addakal village and Mandal, Mahabubnagar District.

...APPELLANT

AND

1. The Andhra Pradesh State Financial Corporation, Chirag All Lane, Abids, Hyderabad rep. by its Chief General Manager
2. The Branch Manager, Telangana State Financial Corporation 1-7-57/6, Ayyapp complex, Police Head Quarters, Mahabubnagar.
3. A. Venkateshwara Reddy, S/o. A. Bicha Reddy, aged about 60 years, Occ-Business, R/o. H. No. 1-10-141, Shashabgutta, Mahabubnagar Town and District.
4. Ch. Pattabhi Seetharama Rao, (Branch Manager) S/o. Seetharamaiah, aged Major, Telangana State Financial Corporation, Mahabubnagar

...RESPONDENTS

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the impugned order dated 30/09/2024 passed by the Learned Single Judge in W.P. No. 41965/2022 so as to enable the 1st and 2nd respondents to consider the representation of the petitioner filed for seeking restoration of the possession of the rice mill, pending disposal of main Writ Appeal.

Counsel for the Appellant: SRI M.DAMODAR REDDY

Counsel for the Respondent Nos.1,2 & 4: SRI M.HAMSA RAJ, SC FOR APSFC

Counsel for the Respondent No.3: SRI J.SURESH BABU

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT APPEAL No.1258 of 2024

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. M.Damodar Reddy, learned counsel for the appellant.

Mr. M.Hamsa Raj, learned Standing Counsel for the Andhra Pradesh State Financial Corporation for the respondents No.1 and 2.

2. In this intra court appeal, the appellant has assailed the validity of the order dated 30.09.2024 passed by the learned Single Judge by which the writ petition preferred by the appellant, namely W.P.No.41965 of 2022, has been dismissed.

3. Facts giving rise to filing of this appeal briefly stated are that the appellant had availed the term loan to the extent of Rs.6,30,000/- on 08.01.1993. The appellant had set up a rice mill and was paying the amount due to the

Andhra Pradesh State Financial Corporation (hereinafter referred to as, "the Corporation") in instalments. However, the appellant had defaulted in making the payment of the amount due to the Corporation. The Corporation thereupon, in exercise of powers under Section 29 of the State Financial Corporations Act, 1951 (hereinafter referred to as, "the Act"), sold the rice mill belonging to the appellant in favour of the respondent No.3. The appellant challenged the action of the Corporation in invoking Section 29 of the Act against it and in selling the rice mill in a writ petition, namely W.P.No.20487 of 2001, in which the following prayer was made:

"For the reasons stated in the accompanying affidavit, it is, therefore, prayed that this Hon'ble Court be pleased to issue a writ, order or direction more particularly one in the nature of Writ of "Mandamus" declaring the action of the Respondent.1 & 2 herein in putting the petitioner unit for sale and also sale of the unit in favour of the 3rd respondent as illegal, arbitrary, contrary to Section 29 of State Financial Corporation Act, contrary to principles of natural justice and contrary to the dicta laid down in Mahesh Chandra's Case and set aside the sale of the petitioner unit in favour of the 3rd respondent as being vitiated by fraud and direct the respondent 1 and 2 to restore the unit to

the petitioner's firm in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

4. The learned Single Judge, however, by an order dated 02.12.2008, allowed the writ petition in the following terms:

"From a perusal of this, it becomes clear that an exercise under Section 29 of the Act can be said to be reasonable only when its dominant consideration is to secure the best price. The efforts of respondent Nos.1 and 4 were exactly in the opposite direction. Their action is not only unfair and unreasonable as mentioned in sub-para (ii), but also malafide as indicated in sub-para (iv) of para 9 of the judgment of the Supreme Court. Therefore, the capricious and malafide exercise of power on the part of the 1st respondent virtually reached its pinnacle when they have withheld even the excess amount that was received over and above the amount due from the petitioner. This Court is left with no alternative except to set aside the sale of the mill owned by the petitioner in favour of the 3rd respondent.

The writ petition is accordingly allowed with costs of Rs.5,000/- against the 4th respondent and the sale is set aside. The 3rd respondent shall be under obligation to pay the damages to the petitioner for use and occupation of the property and the same shall be assessed in case the petitioner files a suit for that purpose. In case, the suit for damages is filed by the petitioner within six months from today, it shall be maintained as having been presented within limitation."

Thus, from perusal of the order passed by the learned Single Judge, it is evident that the learned Single Judge did not direct the Corporation to handover the possession of the rice mill to the appellant.

5. Being aggrieved by the aforesaid order, the auction purchaser and the Corporation have filed writ appeals, namely W.A.Nos.612 and 1453 of 2009. The aforesaid writ appeals were disposed of by a Division Bench of this Court by a common judgment dated 07.04.2022. The operative portion of the said common judgment reads as under:

“Learned counsel appearing for the appellant in W.A.No.612 of 2009 has informed this Court that pursuant to the order passed by this Court, the appellant has cleared all the dues of APSFC, a sale deed has been executed in his favour in the year 2007 and he is running the mill. Learned counsel has also informed this Court that Sri K.Narender Reddy has filed a civil suit claiming damages. However, the said suit was dismissed for default.

The only prayer made before this Court is that in case of civil litigation, the order passed by this Court should not come in the way of the parties, meaning thereby, any *inter se* disputes between the parties.

Resultantly, without averting to the merits of the case, as a sale deed has already been executed in the matter, no further orders are required to be passed in the present writ appeals and the order passed by the learned Single Judge will not come in the way of the parties in the case of *inter se* disputes between the parties.

The writ appeals are accordingly disposed of."

6. Thereafter, the appellant has filed W.P.No.41965 of 2022 seeking the following relief:

"For the reasons stated in the accompanying affidavit the petitioner pray the Hon'ble Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not restoring the possession of Sri Venkateshwara Rice Mill, Addakal village and Mandal, Mahabubnagar District, by duly implementing the orders passed by the Hon'ble High Court dated 02-12-2008 passed in W.P.No.20487/2001, though W.A.No.612/2009 and W.A.No.1453/2009 are closed by the Division Bench of the Hon'ble High Court by order dated 07-04-2022 without going into merits of the finding recorded by the Learned Single Judge in W.P.No.20487/2001 and in permitting the 3rd respondent to run the rice mill contrary to the orders of the Hon'ble High Court as illegal, unlawful, contrary to law and consequently direct the 1st and 2nd respondents to stop the running of the rice mill by the 3rd respondent and take steps to restore the possession of the above rice mill to the petitioner, so as to enable him to run the

same and also to persuade the suit proceedings which were already initiated for the recovery of damages for the illegal occupation of the rice mill by the 3rd respondent, and pass such other order or orders which are necessary in the interest of justice.”

7. The learned Single Judge, by an order dated 30.09.2024, has dismissed the writ petition on the ground that in view of the judgment passed by the Division Bench, no relief can be granted to the appellant. Hence, this appeal.

8. Learned counsel for the appellant submits that the learned Single Judge, vide order dated 02.12.2008 passed in W.P.No.20487 of 2001, had allowed the writ petition filed by the appellant and therefore, the appellant was entitled to possession of the rice mill.

9. On the other hand, learned Standing Counsel for the Corporation has supported the order passed by the learned Single Judge.

10. We have considered the submissions made on both sides and have perused the record.

11. From a perusal of the order dated 02.12.2008, it is evident that despite the relief of restoration of possession being claimed by the appellant in the said writ petition, the learned Single Judge, by the order dated 02.12.2008, did not grant the relief of restoration of possession to the appellant. The learned Single Judge only set aside the auction and granted the liberty to the appellant to file a suit for damages. Thereafter, the Division Bench of this Court, vide judgment dated 07.04.2022 passed in W.A.Nos.612 and 1453 of 2009, without entering into the merits of the case has disposed of the said writ appeals preferred by the auction purchaser and the Corporation. In the absence of any specific direction contained in the order dated 02.12.2008 in W.P.No.20487 of 2001, no relief to the appellant can be granted.

12. However, the appellant is granted the liberty to take recourse to such remedy as may be available to it in law with regard to the grievance of restoration of possession of the rice mill.

13. To the aforesaid extent, the order passed by the learned Single Judge is modified.

14. Accordingly, the appeal is disposed of.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

SD/-I. NAGA LAKSHMI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Chief General Manager, Andhra Pradesh State Financial Corporation, Chirag All Lane, Abids, Hyderabad.
2. The Branch Manager, Telangana State Financial Corporation 1-7-57/6, Ayyapp complex, Police Head Quarters, Mahabubnagar.
3. One CC to SRI M.DAMODAR REDDY, Advocate [OPUC]
4. One CC to SRI M.HAMSA RAJ, SC FOR APSFC [OPUC]
5. One CC to SRI J.SURESH BABU, Advocate [OPUC]
6. Two CD Copies

PSK.

BS

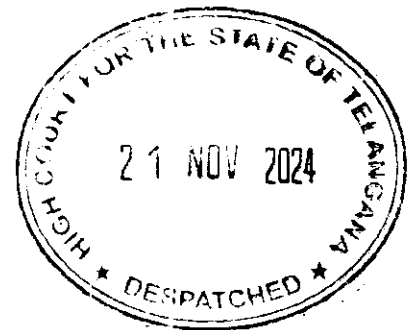


HIGH COURT

DATED:07/11/2024

JUDGMENT

WA.No.1258 of 2024



**DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS.**

8
18/11/24
b.k.