

**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**FRIDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

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

WRIT PETITION NO: 38382 OF 2016

Between:

1. M/s.Shivanagar Khandasri Sugar Mills, Shivanagar village, Yellareddy (Mandal), Nizamabad Dist. T.S., represented by its Proprietrix Smt. Bhagwan Bai, (Died per LRs)
2. Kamal Kishore (GPA HOLDER) S/o.Late Heerlal, Age: 60 years, Occ: Business, R/o.9-2-48, Market Road, Near Badi Masjid, Langar House, Golconda Road, Hyderabad-500008, TS.
3. Vijay Lakshmi Agarwal, W/o.Late Bhagwan Das Agarwal, Age 68 years, Occ:House Wife, R/o.H.No.1-2-212/6/1/103, Legent Gulati, Gagan Mahal, Domalguda, Himayathnagar, Hyderabad-500029, Telangana.
4. Kiran Bai, W/o.Ashok Kumar, Age: 66, Occ: Housewife, R/o.21-1-508, Rikab Gunj, Opp.High Court, Gate No.5, Hyderabad. Telangana.
5. Anita Bai, W/o.Kamal Kishore Sonthalia, Aged 64 years, Occ: Housewife, R/o.5-9-42/1/C, Hill Fort Basheer Bagh, Hyderabad-500001.
6. Shobha S Lodha, W/o.Shyam Sunder Lodha, Age 61 years, Occ: House wife, Lodha House, Maid Road, Chakradharpur, Jharkhand-833102.

(Petitioner Nos.2to6 are brought on records as Lrs of deceased Proprietrix Smt.Bhagwan Bai, (Petitioner No.2 is the GPA Holder as Petitioner Nos.3to6) as per CO dt.20-12-2024, vide I.A.No.1 of 2022 in W.P.No.38382 of 2016)

...PETITIONER

AND

1. State of Telangana, represented by Principal Secretary, Industries and Commerce Department, Secretariat, Hyderabad.
2. The Commissioner & Director of Sugar & Cane, Commissioner, H.No.5-10-174, Shakkar Bhavan, Fatehmaidan Road, Hyderabad, T.S.,
3. The Assistant Cane Commissioner, Bodhan, Nizamabad Dist, T.S.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be

pleased to issue writ, order or direction, more particularly one in the nature of writ of mandamus by declaring the action of the 3rd respondent in issuing notice vide Lr.No.B/474/2004 dated 4-2-2016 requesting to modify the demand notice dt.7-12-2015 as illegal, arbitrary, unsustainable in law consequently direct the 2nd respondent to consider the Incentive paid to the farmer for the year 1995-96 and 1999-2000 and modify/revise the levy of Purchase tax and adjust the Purchase tax already paid and consequently release the attached immovable properties of petitioner concern i.e., 27 acres of land at Brahmanpally and Mallaipally vide Sy.No.154/4 - 157/2 admeasuring Ac.14.33 gts and Sy.No.129/9 - 136 admeasuring Ac.13.00 gts, respectively and further issue order to the Tahsildar, Yellareddy Mandal.

I.A. NO: 1 OF 2016(WPMP. NO: 47294 OF 2016)

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 direct the 2nd respondent to suspend the operation of the notice vide Lr.No.B/474/2004 dated 4-2-2016 issued by the 31-d Respondent.

Counsel for the Petitioner : SRI PAWAN KUMAR AGARWAL

Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

Writ Petition No.38382 of 2016

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

Mr. Kushaal Agarwal, learned counsel represents Mr. Pavan Kumar Agarwal, learned counsel for the petitioners.

Mr. A.Ananthasen Reddy, learned Government Pleader for Industries and Commerce Department appears for the respondents.

2. In this writ petition, the petitioners *inter alia* have assailed the validity of the notice dated 04.02.2016, as well as the demand notice dated 07.12.2015.

3. We have heard learned counsel for the parties and perused the record.

4. Section 21-A of the Andhra Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1961 (for short 'the Act'), provides that any occupier of a factory or owner of a khandasari unit, who is aggrieved by the levy of tax made in pursuance of Section 21 may, within thirty days of the communication to him of the order levying the tax, appeal to such authority as the Government may, by notification, appoint in this behalf, for the cancellation or modification of the levy of tax and on such appeal, the said authority may cancel or modify the tax.

5. The petitioners have an alternative efficacious statutory remedy of filing an appeal. Instead of approaching the appellate authority, the petitioners have filed this writ petition in 2016, in which no interim order has been passed.

6. The petitioners have an alternative efficacious statutory remedy available to them under the Act. Therefore, we are not inclined to entertain this writ petition under Article 226 of the Constitution of India. However, liberty is reserved to the petitioners to file an appeal against the impugned demand notices issued under Section 21-A of the Act within a period of thirty days from the date of receipt of a copy of the order passed today.

7. Needless to state that in case such an appeal is filed by the petitioners within a period of thirty days, the appellate authority shall, after affording an opportunity of hearing to the petitioners, decide the appeal expeditiously in accordance with law. It is made clear that this Court has not expressed any opinion on the merits of the matter.

8. Accordingly, the Writ Petition is disposed of. No costs.

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

**SD/-K. SREE RAMA MURTHY
ASSISTANT REGISTRAR**

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SECTION OFFICER

To,

1. The Principal Secretary, Industries and Commerce Department, State of Telangana, Secretariat, Hyderabad.
2. The Commissioner & Director of Sugar & Cane, Commissioner, H.No.5-10-174, Shakkar Bhavan, Fateh Maidan Road, Hyderabad, T.S.,
3. The Assistant Cane Commissioner, Bodhan, Nizamabad Dist, T.S.
4. One CC to SRI PAWAN KUMAR AGARWAL, Advocate. [OPUC]
5. Two CCs to GP FOR INDUSTRIES & COMMERCE, High Court for the State of Telangana. [OUT]
6. Two CD Copies.

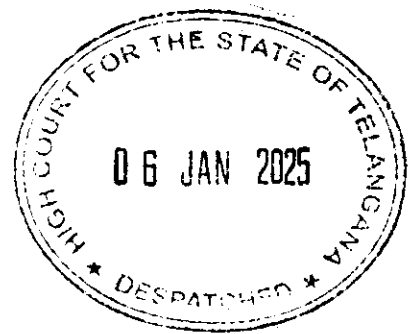
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HIGH COURT

DATED:20/12/2024



ORDER

WP.No.38382 of 2016

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

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