*** THE HON'BLE Dr. JUSTICE G. RADHA RANI**

+ WRIT PETITION No.18304 of 2022

% 06.06.2022

M/s. Dugyala Harish Rral Godowns, a Proprietary
Concern, Rep. by its Sole Proprietor Mr. Harish Dugyala,
S/o.Srinivas Dugyala, aged about 35 years,
Occ: Business, R.o.H.No.2-6-33, Near Circuit Guest House,
Hanamkonda, Warangal, Telangana and another.

…. Petitioners

Vs.

$ The Central Warehousing Corporation
A Govt. Of India undertaking, Regional Office
At Hyderabad, Rep. by its General Manager and others

….. Respondents

!Counsel for the Petitioner : Sri Sudershan Malugari

Counsel for the Respondents : Sri A.K. Jayaprakash

<Gist :

>Head Note:

? Cases referred:

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WRIT PETITION No.18304 OF 2022

ORDER:

This writ petition is filed by the petitioners to declare the action of the respondents/corporation in passing the Proceedings/Order No.CWC/HYD/CD/Court Case (Dugyala Harish)/2021-22/4052, dated 03.12.2021 and denying to pay the lease amounts due to the petitioners as arbitrary, illegal, in violation of principles of natural justice and consequently to direct the respondents to remit the entire pending rents to the petitioners up to date.

2. Heard the learned counsel for the petitioners and learned standing counsel for the respondents/Corporation.

3. Learned counsel for the petitioner submitted that the 2nd petitioner was the absolute owner and possessor of CWC Godowns at Survey Nos.1193, 1192, 1191, 1189 and 1190 admeasuring Ac.2.17.75 guntas, Raghavapoor Village, Peddapalli Mandal, Karimnagar.

4. The 2nd petitioner executed a lease agreement in favour of the 1st petitioner and the 1st petitioner entered into an agreement/lease of the godown premises in favour of the respondents/corporation. The 2nd

petitioner obtained term loan of Rs.240 lakhs from Andhra Bank, Hanamkonda Branch, Warangal. As the 2nd petitioner committed default in payment of the loan installment, the bank declared their loan account as NPA and initiated proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The 2nd petitioner challenged the recovery notices issued by the bank by filing Securitization Appeals before the Debt Recovery Tribunal, Hyderabad. Pending securitization appeals the 2nd petitioner proposed to settle the loan amount under one time settlement scheme by paying 10% of the total due. However, the bank conducted an e-auction on 20.08.2019 and one M/s.Jagityal Agro Warehouses Private Limited had participated in the e-auction and became the successful bidder for purchasing the said godowns in the open auction. The bank sold the godowns on *"as is where is basis"* and issued a conditional sale certificate dated 21.08.2019 in favour of the purchaser with a rider that the sale would be subject to the outcome of the securitization appeals. It was also specified in the sale certificate that in the event of any adverse orders passed against the bank, the bank would refund the bid amount immediately. The 2nd petitioner paid the entire outstanding loan amount and settled the entire loan amount. Her loan account was shown as zero balance. The third party/E-auction bidder

challenged the action of the bank for not issuing the sale certificate in their favour and addressed a letter to the respondents' office seeking attornment of lease agreement and sought for remittance of the rental amounts in their favour. Basing on the said letter, the respondents stopped remitting the lease amounts. The 1st petitioner gave representation on 24.08.2021 for non remittance of rents as per schedule. As the respondents failed to act upon the representation and failed to remit the rents, the petitioners filed Writ Petition No.29774 of 2021 to declare the action of the respondents for not disposing the representation dated 24.08.2021 as illegal. Pending the writ petition the respondents passed the impugned order on 03-12-2021. The said writ petition was withdrawn by the petitioners with a liberty to file fresh writ petition and the same was accordingly ordered on 24.03.2022.

5. The learned Standing Counsel for the respondents admitted that pending adjudication of the Securitization Appeals, the original owner executed lease deed dated 11.02.2020 in favour of the 1st petitioner for a period of 10 years commencing from 01.11.2020 to 31.10.2030 authorizing him to lease out the godowns to any third party on payment of fixed rent to them and on the basis of the lease agreement executed by the owner of the property, the 1st petitioner leased out the godowns to the Central Warehousing Corporation under two separate lease deeds dated

13.02.2021. He submitted that the auction purchaser addressed a letter dated 15.03.2021 to Cotton Corporation of India, marking a copy to the Central Warehousing Corporation claiming to be the owner of the godowns by virtue of the auction sale dated 28-08-2019 and demanded the Corporation not to pay rents to the owner of the godown and informed that he filed Interlocutory Application before the Debt Recovery Tribunal to implead the Corporation as a party to the Securitization Appeal and that he sought a direction to the Corporation to deposit the rent amount before the Debt Recovery Tribunal pending disposal of the Securitization Appeal. He also admitted that the original owner submitted a letter dated 23-03-2021 to the Corporation stating that the ownership of the godowns was not fully transferred in favour of the auction purchaser and that the validity of the auction sale was yet to be adjudicated by the Debt Recovery Tribunal and requested the Corporation to reject the letter dated 15.03.2021 issued by the auction purchaser. He further submitted that as there was an ownership dispute over the godowns which was sub-judice before the Debts Recovery Tribunal-I at Hyderabad, the Corporation kept the payment of rent in abeyance till it received any direction from Debt Recovery Tribunal and they were having no objection to deposit the rents if there was a direction from the Court or from the Debt Recovery Tribunal.

6. Perused the record.

7. As seen from the admitted facts, the respondents were not denying entering into lease deed with the petitioner No.1 for a period of one year commencing from 01.11.2020 and they also admitted that the original owners executed a separate lease deed in favour of the 1st petitioner during the pendency of the Securitization Appeal and basing on the said lease agreement only, the 1st petitioner leased out the godown to them. They also admitted in the impugned letter dated 03.12.2021 that the physical possession of the godowns was still remained with the original owner i.e., the petitioner No.2 and also admitted in the said letter that they had not received any direction from the Debt Recovery Tribunal to deposit the rents before Debt Recovery Tribunal. As such, in the absence of any specific direction and order from any competent court or Debt Recovery Tribunal, it was not open to the 2nd respondent to contend that there was a ownership dispute over the godowns and to give a go by to the lease agreement entered by them with the 1st petitioner.

8. Admittedly, the dispute was in between the petitioner, their bank and the auction purchaser. Without any direction from the competent Court of law or Debt Recovery Tribunal, the respondents have no right to interfere

in the said dispute and cannot advise the petitioners to get a direction and title clearance from the Court. The respondents also admitted that the possession remained with the petitioners and they entered into lease agreement with the 1st petitioner during the pendency of the Securitization Appeal as such, they cannot deny to pay the lease amount due and cannot advise the petitioners to obtain an order from the Debt Recovery Tribunal. The respondents could not enjoy the premises without paying the lease amounts and could not deny the title of the petitioners at the behest of the third party. They could not deny the title or the lease amount to the petitioners. As such it is considered fit to direct the respondents to remit the pending rents to the petitioners as per the lease agreement by setting aside the impugned proceedings dated 03-12-2021.

9. In the result, the writ petition is allowed directing the respondents to pay the lease amount to the petitioners forthwith.

10. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

Dr. G. RADHA RANI, J

June, 6, 2022
PSSK