

(2002) 09 KAR CK 0063

In the Karnataka High Court

Case No : Writ Appeal No's. 566 to 604 and 639 of 1998 connected with Writ Petition No's. 22323 to 22372, 24084 to 24118 and 25217 to 25225 of 2002

S. Shankaranarayana Kedlaya

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 16-09-2002

Acts Referred:

Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 — Section 117, 2 (28), 8

Citation : (2002) ILR (Kar) 4716 : (2003) 3 KarLJ 201 : (2002) 4 KCCR 2948

Hon'ble Judges : Kumar Rajaratnam, J;K. Bhakthavatsala, J

Bench : Division Bench

Advocate : K. Gopala Hegde, in W.A. No. 639 of 1998 and A.G. Holla, for K.M. Nataraj, in W.A. Nos. 566 to 604 of 1998 and W.P. Nos. 22323 to 22372 of 2001 and 24084 to 24118 and 25217 to 25225 of 2002, for the Appellant; A.N. Jayaram, General, Nagarajulu Naidu and B.N. Prasad, Additional Government Advocate for Respondent-1 in W.A. Nos. 639 and 566 to 604 of 1998, B.G. Sridharan, for Respondent-2 in W.A. Nos. 639 and 566 to 604 of 1998, H.K. Thimmegowda in W.P. Nos. 22323 to 22372 and 25217 to 25225 of 2002 and Standing Counsel in W.P. Nos. 24084 to 24118 of 2002, for the Respondent

Final Decision : Dismissed

Judgement

K. Bhakthavatsala, J.—The writ appeals are directed against common order passed on 5-2-1998 in W.P. No. 36265 of 1997 and connected cases by the learned Single Judge of this Court dismissing all the writ petitions.

2. The writ petitions came to be filed later on were directed to be posted along with the writ appeals in view of raising common question of fact and law.

3. Thus, all the above said cases are before us for disposal.

4. The writ appeals and the writ petitions involve common questions of fact and law and are taken up with the consent of parties and we proceed to pass a

common judgment.

5. In view of the submission made by the learned Advocate General and learned Counsels for the parties, the following questions arise for our consideration.-

(i) Whether supari is arecanut as mentioned in Schedule VIII under the caption "plantation crops and spices" in Sl. No. 1 to the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966?

(ii) If so, whether the appellants/petitioners are governed by Section 8 of the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966?

(iii) Whether the Market Committee constituted for the market area, Puttur under the Agricultural Produce Marketing (Regulation) Act has provided with requisite facilities and infrastructure in the market yard?

Question No.(i) At the very outset, we must mention that the Karnataka Agricultural Produce Marketing (Regulation) Act, 1966 (in short, the "ARM Act"), a State legislation, has been passed to provide for better regulation of marketing of agricultural produce and the establishment and administration of markets for agricultural produce and matters connected therewith in the State of Karnataka, which came into force on 1-5-1968.

As per Section 2(1) of the said Act, "agricultural produce" means the produce or goods specified in the Schedule. Part VIII of the Schedule deals with plantation crops and spices reads as under:-

"VIII. Plantation Crops and Spices

1. Arecanut

2. xxx

3. Cashew-nut

3-A. Cashew Kernel

4. Chillies (dry)

5. Coconut

6. Copra

7. Coriander

8. Garlic

9. Ginger

10. Methi

11. Pepper

12. Turmeric

13. Coffee Seeds (to the extent of free sale quota):

(i) raw coffee (cherry coffee);

(ii) cured coffee seeds;

(iii) uncured coffee seeds & quot;

Thus, it is clear that as per the above said Schedule to the Act, arecanut is an agricultural produce. The contention of the appellants/petitioners is that they are dealing with the commodity called "supari", which commodity is not declared as a notified agricultural produce in the Act nor is it included in the Schedule annexed to the statute and therefore they have contended that Agricultural Produce Marketing Committee cannot interfere with their trade in supari in any manner whatsoever.

The learned Senior Counsel Sri B.G. Sridharan and Sri Thimmegowda, appearing for APMC, drew our attention with regard to how "ARECANUT", which is in English, is called in different languages, on the basis of a handbook on the identification and description of trees, shrubs and some important herbs of the forest of the Southern States for the use of the Southern Forest Rangers College, Coimbatore by Sri T.R. Somasundaram. According to note at 944 of the said handbook relating to areca, it is called in different names in different languages as under:-

" ; Language

Name

Tamil

Kamugu, Pakku

Malayalam

Kavungu, Adakka

Telugu

Vakka

Kannada

Adike

Hindi

Supari"

Thus, it is crystal clear that the word "supari" is nothing but areca in English.

While considering the vires of the Madras Commercial Crops Markets Act (20 of 1933), the Apex Court referred to historical background for that Act and has observed as under (M.C.V.S. Arunachala Nadar etc. Vs. The State of Madras and

Others,):

"Para (6) Marketing legislation is now a well-settled feature of all commercial countries. The object of such legislation is to protect the producers of commercial crops from being exploited by the middlemen and profiteers and to enable them to secure a fair return for their produce.....".

It is relevant to excerpt a portion of para (7) of the above said judgment for immediate reference, which reads as under.-

"(7) The Act, therefore, was the result of a long exploratory investigation by experts in the field, conceived and enacted to regulate the buying and selling of commercial crops by providing suitable and regulated market by eliminating middlemen and bringing face to face the producer and the buyer so that they may meet on equal terms, thereby eradicating or at any rate reducing the scope for exploitation in dealings. Such a statute cannot be said to create unreasonable restrictions on the citizens' right to do business unless it is clearly established that the provisions are too drastic, unnecessarily harsh and overreach the scope of the object to achieve which it is enacted".

The learned Senior Counsel Sri A.G. Holla, Sri Gopala Hegde, Sri K.M. Nataraj, appearing for the appellants/petitioners cited the following decisions.-

- (1) A.V. Fernandez Vs. The State of Kerala, ;
- (2) Pyarali K. Tejani Vs. Mahadeo Ramchandra Dange and Others, ;
- (3) Pratul Kumar Sinha Vs. State of Bihar and another, (1994) Supp. (3) SCC 100 ;
- (4) Rajasthan Roller Flour Mills Association and another Vs. State of Rajasthan and others, ;
- (5) State of Rajasthan, etc. Vs. Rajasthan Agricultural Input Dealers Association, etc., ;
- (6) Labha Ram and Sons and Others Vs. State of Punjab and Others,
- (7) Decision rendered by a Single Judge of this Court in Mangalore Cashew Manufacturers' Association and Anr. v. Agricultural Produce Marketing Committee and Anr., W.P. Nos. 10893 and 10894 of 1998

In the above said Mangalore Cashew Manufacturers' Association's case, the learned Single Judge of this Court while interpreting cashew kernel and cashew nut, held that cashew kernel and cashew nut are different and therefore held that since cashew kernel is not included in the Schedule to the Act, it was not an agricultural produce and therefore Market Committee had no jurisdiction to control marketing activity in respect of cashew kernel. The above said decision is of no avail to the case of the appellants/petitioners as in the instant case as arecanut in English is called as supari in Hindi. Further. Serial Nos. 5 and 6 to Schedule deals with coconut and copra. Admittedly, they are different

commodities. The contention of the learned Counsels for the petitioners that de-husked areca is supari like that of cashew nut and cashew kernel holds no water. For example, if a coconut is plucked from the tree and sold as it is or de-husked coconut, the nature and identity does not change. Likewise, in the instant case of areca, merely because of removing fibrous rind covering the seed, it would not change its nature and identity. It is not out of place to mention that the learned Single Judge considered all the cases cited by the learned Counsels for the petitioners and came to the right conclusion that the arecanut and supari would constitute the same commodity, and not two different and independent commodities. There is no difference between areca and supari and it cannot be said that areca and supari are two different products. As stated earlier areca is referred to as supari in North India and in South India it is referred to as areca. Therefore, we are of considered view that arecanut and supari constitute the same commodity and not two different and independent commodities. Hence, we answer question No. (i) in the affirmative.

Question No. (ii).--At the cost of repetition, we must mention that the APM Act has been enacted to prevent exploitation of the growers by the middlemen. Section 2(9) of the Act defines "commodity" as any kind of agricultural produce meant for sale. Section 2(14) defines "goods" as any land of notified agricultural produce. Section 2(18-A) defines "marketing" as buying and selling of agricultural produce and includes grading, processing, storage, transport, packaging, market information and channels of distribution. Section 2(19) of the Act defines "market area" as any area declared to be a market area u/s 4. Section 2(23) of the Act defines "market yard" as a specified place declared or deemed to be declared to be a market yard under this Act. Section 2(28) of the Act defines "notified agricultural produce" as any agricultural produce which the State Government has by notification issued under Sections 4 and 5 declared as an agricultural produce the marketing of which shall be regulated in the market area.

Now, we refer to Section 8 of the Act. Section 8 of the Act reads as under:-

"8. Control of marketing of agricultural produce.-

(1) After the market is established.-

(a) no local authority shall, notwithstanding anything contained in any law for the time being in force establish, authorise or continue or allow to be established, authorised or continued any place in the market area for the marketing of any notified agricultural produce:

Provided that a local authority may establish or continue any place for retail sale of any notified agricultural produce other than cattle, sheep and goats subject to the condition that no market functionary shall operate in such place except in accordance with the provisions of this Act, and the rules and the bye-laws and standing orders of the market committee;

(b) no person shall, without, or otherwise than in conformity with the terms and conditions of a licence granted by the Market Committee in this behalf.-

(i) use in any place in the market area for the marketing of the notified agricultural produce; or

(ii) operate in the market area or in any market therein as a trader, commission agent, broker, processor, weighman, warehouseman or in any other capacity in relation to the marketing of the notified agricultural produce:

Provided that nothing contained in Clause (b) shall apply.-

(i) to the sale of such agricultural produce if the producer of such produce is himself its seller; or

(ii) to the purchase of such produce if the purchaser is a person who purchases such produce for his domestic consumption.

(2) No place except the market yard, market sub-yard or sub-market yard, as the case may be, shall be used for purchase or sale of notified agricultural produce.

(3) Nothing in Sub-section (2) shall apply to.-

(a) the purchase or sale of notified agricultural produce by.-

(i) a Taluk Agricultural Produce Co-operative Marketing Society; (ii) a Primary Agricultural Co-operative Credit Society; and

(iii) any other Co-operative Society permitted by the State Government;

(b) the sale of notified agricultural produce by a retail trader".

From the above section, it is clear that an agriculturist/producer of a notified agricultural produce is not required to obtain licence from the Marketing Committee, but he cannot sell notified agricultural produce anywhere outside the market yard, market sub-yard or sub-market yard.

The learned Counsel Sri B.G. Sridharan has cited the decisions rendered in M.C.V.S. Arunachala Nadar's case, supra and The Belsund Sugar Co. Ltd. Vs. The State of Bihar and Others Etc., . He submitted that so far as the producer is concerned, if he wants to sell the produce by way of retail trade, he need not enter the market yard, but he can sell the produce in any place within the market area and no market fee is attracted either. It is further submitted that a producer, who is situated within the market area is not compelled to sell the produce grown by him only in the concerned market yard, but he is at liberty to transport the produce to any place of his choice and sell the same in any market yard in the State of Karnataka. Thus, sale of a notified agricultural produce outside the market yard is prohibited under Sub-section (2) of Section 8 of the Act. Even if the producer wants to sell the produce outside the market yard, a purchaser is prohibited from purchasing the same outside the market yard, with

the result that the producer has to necessarily bring the produce into the market yard for sale so as to control and implement the provisions of the Act. Section 117 of the Act provides for penalty for contravention of Section 8 of the Act. In other words, Section 117 of the Act says that whoever in contravention of the provisions of Sub-section (2) of Section 8 of the Act uses any place for purchase or sale of notified agricultural produce, shall on conviction be punished with imprisonment for a term which may extend to six months and with fine which may extend to Rs. 5,000- but shall not be less than Rs. 500/-. Therefore, it was argued on behalf of APMC that no person is allowed to sell the notified agricultural produce outside the market yard and if he does so, he is liable to be prosecuted u/s 117 of the Act, thereby Section 117 of the Act embraces the purchaser also. The Constitutional Bench of the Apex Court in *M.C.V.S. Arunachala Nadar's case*, supra, in para (9) has observed as under:-

"Para (9). Shortly stated, the Act, Rules and the Bye-laws framed thereunder have a long-term target of providing a network of markets wherein facilities for correct weighment are ensured, storage accommodation is provided, and equal powers of bargaining ensured, so that the growers may bring their commercial crops to the market and sell them at reasonable prices. Till such markets are established, the said provisions, by imposing licensing restrictions, enable the buyers and sellers to meet in licensed premises, ensure correct weighment, make available to them reliable market information and provide for them a simple machinery for settlement of disputes. After the markets are built or opened by the marketing committees, within a reasonable radius from the market, as prescribed by the rules, no licence is issued; thereafter all growers will have to resort to the market for vending their goods. The result of the implementation of the Act would be to eliminate, as far as possible, the middlemen and to give reasonable facilities for the growers of commercial crops to secure best prices for their commodities".

The above decision has been followed in subsequent decisions in *D.V. Kempaiah and Others Vs. The Chief Marketing Officer, Karnataka and Others*, , *Kewal Krishan Puri and Others Vs. State of Punjab and Another*, and *Sreenivasa General Traders and Others Vs. State of Andhra Pradesh and Others*, .

In *D.V. Kempaiah's case*, supra, the validity of Section 8(2) of the Act was upheld and further held that imposing reasonable restrictions in the matter of buying and selling notified agricultural produces was valid. It is further argued that the provisions of the Act, Rules and Bye-laws will have to be interpreted keeping in mind the object and purpose of the Act, which is intended to safeguard the interest of the producer from being exploited by the middlemen in the matter of correct sale price and prompt payment of price whenever the produce is sold by the producer. Therefore, producer of agricultural produce is governed by Section 8 of the Act and it does not violate the fundamental right of a grower.

For the foregoing reasons, we answer question No. (ii) in the affirmative. Hence,

W.A. No. 639 of 1998 filed by the grower is liable to be dismissed.

Question No. (iii).--The contention of the traders dealing in areca that market yard does not have enough infrastructure is concerned, even during the pendency of writ appeal, this Court appointed Sri Sudhakar Pai and Sri Ajay Govindaraj, Advocates of this Court as Court Commissioners for the purpose of inspecting the shops, godowns and submit a report as to whether any seepage in the building or leakage and whether there is enough facility for the purpose of fumigation, adequate security facilities and report. Accordingly, Court Commissioners submitted report dated 25-1-2002. According to the Commissioner's report, the total extent of market yard is 10,26 acres, with an Administrative Office Building, Syndicate Bank Branch, Check-post, Bank-cum-Post Office, APMC Official Staff Quarters with two metalled broad roads. The distance between the place of Railway Station and market yard is about 100 yards. Further, internal roads and storm water drainage facilities have been provided within the yard. The report further says that 99 shops-cum-godowns, auction platform, facilities like electricity, streetlight, water supply provided besides Fire Brigade Station. The report further states that there is Raitha Bhavan Guesthouse, canteen facilities, police outpost, STD booth with public telephone, independent borewell and overhead tank in the yard for supply of water. Admittedly, 104 shops, 49 asbestos sheet shops, two godowns with asbestos sheets, fumigation room are situated in the market yard. Further, CAMPCO, 5JACNS and TAPCMS have occupied the shops in the APMC yard. The contention of the traders that sufficient facilities and infrastructure is not provided and traders viz., CAMPCO, SKACMS and TAPCMS have not shifted to the yard is falsified by the Commissioner's report. The contention of the traders contending that the AMPC has not provided sufficient facilities and infrastructure without occupying shops and experiencing hardship making a bald complaint against APMC holds no water and the contention of the petitioners is nothing but "pot calling the kettle black". It is not out of place to mention that APMC has invested crores of rupees in establishing the market yard and on account of the traders not shifting their trading activities to the APMC Yard, the APMC is further losing its revenue and thereby defeat the very object of the Act. There is no impediment to observe that if there is any requirement regarding facilities, the APMC would provide the required infrastructure and facility. Under such circumstances, there is no merit in the contention of the learned Counsel for the appellants/petitioners that the market yard does not have required facilities and infrastructure. Hence, we answer question No. (iii) in the affirmative.

6. In the result, we pass the following order:-

Writ appeals and writ petitions fail and they are hereby dismissed. No costs.

Kumar Rajaratnam, J.

16-9-2002

While I respectfully agree with the conclusion rendered by my learned brother,

Bhakthavatsala, J., in his judgment (which I have had the privilege of reading before pronouncement) I would like to add a few words on my own on this subject.

2. Mr. A.G. Holla, learned Senior Counsel for the appellants relied on a judgment of the Supreme Court in Pyarali K. Tejani's case, *supra*, and submitted that the Supreme Court has recognised that supari is a separate product.

3. It is not correct to state that supari has been recognised as a separate product. On the contrary, Supreme Court dealt with a case from Maharashtra under the Prevention of Food Adulteration Act, 1954 and in Maharashtra areca was known by the name supari. Indeed this illustrates the point that areca in Karnataka is referred to as supari in Maharashtra.

4. Reliance was also placed on a judgment of the Supreme Court in Rajasthan Roller Flour Mills Association's case, *supra*. The Supreme Court held that flour or maida or suji are different commodities from wheat. This judgment will not help the traders since we are of the view that supari and areca are not two different commodities and are the same.

5. Indeed the learned Advocate General assisted the Court as Amicus Curiae. He referred to certain articles by reputable authors on the history of areca. All these authorities indicate that what is areca in Karnataka is known as supari in North India and it is also referred to by other names in different parts of India.

6. In the Dictionary to the Economic Products of India by George Watt, Vol. I, areca is defined as follows:

"Vern.--The nut: Supari, Supyari, HIND, and DUK; Gua, Supari, BENG.; Tambul, ASS.; Poka-vakka, vakka, TEL.; Kamugu, pakku, kottai-pakku, TAM.; Adike, KAN.; Supari, hopari, phophal, GUJ.; Supari, MAR.; Adka, kavugu, atakka, MAL.; Puga-phaiam, gubak, SANS.; Fofal or fofal, ARAB.; Gird-chob, popal, PERS.; Puwak, puvakka, SINGH.; Kwan-thee-beng, kungsi, kun, kun thee-bin, BURM.; Ah-bud-dah, ah-pur-rud-dah, AND".

7. Reference is also made to the Dictionary of Indian Raw Materials and Industrial Products. Areca is defined in the dictionary as follows.-

"A small genus, comprising about 20 species of slender palms. The genus is essentially Indo-Malayan, distributed in tropical Asia, New Guinea and tropical Australia. Four species are known to occur in India and one is endemic in Ceylon (*A. concinna* Thw.). *A. catechu* yields the areca or betel-nut. The seeds of *A. concinna*, *A. nagensis* Griff. (Naga hills, Assam) and *A. triandra* Roxb. (the Andaman Islands and Sumatra), are occasionally used as substitutes for areca-nuts.

SANS.--Poogiphalam; ARAB.--Fofal; PERS.--Popal; HIND., etc.--Supari; TEL.--Vakka; TAM.--Pakku; KAN.--Adike; MAL.--Adakka.

The fruits and nuts vary greatly in size and shape. The hardness and

astringency of the nuts also show considerable variations.

Seedlings are raised from ripe fruits collected in November, from carefully selected trees, about 25-30 years old.

Each tree yield 2-3 hunches a year, containing 200-250 fruits, weighing 3.2 to 4.9 lb. per 100 fruits. The yield per acre, with 400 trees in bearing, is 160,000-300,000 fruits, or about 6-10 ewt, of dried areca-nuts. In Mysore the average yield per acre of cured nuts is estimated at 7 ewt, per annum and the net profit from an acre in normal times (1937), at about Rs. 100/-.

Areca nut is used either raw or cured. The latter kind is used mostly in Southern India, and the former, in the rest of the country. For marketing raw nuts, only ripe fruits are collected, as kernels from these are less astringent and keep better. They are then husked, or cut into two, dried and the half-nuts are removed from shells. Sometimes ripe fruits are dried in the sun for six to seven weeks and marketed as such and peeled before use.

.. the fruits are shelled and the kernels sliced. The fruits should not be left unhusked for more than three days".

8. Reference is also made to an Article written by Dr. Vigneshwara Varmudy, Department of Economics, Vivekananda College, Puttur, Dakshina Kannada., an authority on the history of the growth of areca.

Certain portions of his article is extracted to show that areca is called differently in different parts of India:

"Areca-nut (Areca Catechu Linn) is a slender stemmed palm and is a native of Malaya. It is cultivated primarily for its kernel obtained from the fruit. It is the common masticator nut, popularly known as arecanut, betelnut or supari.

The kernel is chewed by the people in tender, ripe or processed form along with betel quid. Arecanut is known to have many medicinal properties. It is also known to stimulate the central nervous system. The habit of "Pan-Supari" chewing finds a unique place among millions of people. Chewing of "Pan-Supari" is known to aid digestion by increasing the production of saliva and gastric juice. It helps in improving odour of the mouth and also beautified the mouth. In the domestic market of India, one can find different forms of pan masala and scented supari and their popularity is increasing nowadays.

Commercial cultivation of arecanut is done only in India, Bangladesh and Sri Lanka. However, it is grown as a stray crop in Indonesia, Malaysia, Burma and some of Pacific Ocean Islands. India occupies the first place in respect of area under areca and production. India produces nearly 90 per cent of the total world production of areca-nut.

Area and Production.--In India, arecanut is largely grown in the plains and foothills of Western Ghats extending from Bombay to Kanyakumari and in the North Eastern region, West Bengal, Assam, Meghalaya, Tripura etc. As a whole

the cultivation of arecanut is mostly confined to the States of Karnataka, Kerala and Assam where it accounts for about 89 per cent of the area. The total area under arecanut in 1998-99 was 372 thousand hectares and the total production was 415 thousand tonnes which was 268.7 thousand hectares and 333.9 thousand tonnes respectively in 1997-98. As a whole the trend for area, production and yield of arecanut since 1994-95 upto 1998-99 reveals that all of these are showing a positive sign. Karnataka dominates both in terms of area and production of arecanut, in terms of area it is around 33 per cent and for production it is about 39 per cent followed by Kerala and Assam.

Varieties for consumption.--There are mainly two prominent varieties of arecanut consumed viz., the chali variety and the "Kempadike" or "Kalippakku" variety.

The "chali" variety which is preferred largely by the consumers in the North, Central, Eastern and Western India is processed by harvesting mature nuts and sun-drying the produce for 40-55 days before de-husking. These de-husked variety is called as "Bill Gotu" in Karnataka and in Kerala it is called as "Kottappakku".

The second type of produce preferred in Karnataka, Andhra Pradesh and Tamil Nadu is supari which is called "Kempadike" in Karnataka and "Kalippakku" in Kerala. The processing of this variety is different as compared to "chai". In this only tender nuts are harvested, de-husked, cut or retained as such and cooked".

9. Reference was made to these authorities since we had to satisfy ourselves that areca is the same as supari. Supari is only the creation of a new name more particularly in North India for areca.

10. With regard to basic facilities at the yard a three Judge Bench of the Supreme Court in M/s. Labha Ham and Sons" case, supra, did not concur with the view adopted by a two Judge Bench of the Supreme Court in Chint Ram Ram Chand and Others Vs. State of Punjab and Others, and approved the view expressed by a three Judge Bench in the case of Prem Chand Trilok Chand v. State of Haryana, C.A. No. 3122 of 1991, DD: 7-8-1991.

11. The Supreme Court in Prem Chand Trilok Chand"s case, supra, at paragraph 4 held as follows.-

"4. We are of the view that normally once the Government starts regulating the place of sale of agricultural produce covered by the Act and does not permit any other place to be used for the purpose, there is an inherent obligation of the Government to provide at the new site for all the licensed dealers sufficient accommodation for carrying on their trade and until that is done it would not be possible for the Government to direct closure of the old site".

12. Once a trader is confined to do his trade only at the yard with respect to notified commodities, then there is a duty and responsibility cast on the part of the APMC to provide necessary facilities and infrastructure.

13. However, in the facts and circumstances of this case, we are satisfied from the report of the Commissioner that all basic facilities have been provided at the yard including fumigation facilities.
14. On a careful perusal of the Commissioner's report we are also satisfied that similarly placed traders like CAMPCO have already shifted to the yard.
15. There can be no impediment for the traders dealing in areca to shift to the yard.
16. The learned Counsel for the APMC has given a categorical assurance to this Court that even after the traders shift, if there is anything more to be done in providing facilities that will be done expeditiously. This assurance is placed on record.
17. In these circumstances there can be no objection for the traders to shift their business to the yard.
18. As stated by my learned brother the yard has been constructed at enormous costs and has been lying vacant for many years.
19. It is a crying shame that the traders have found some objection or the other to avoid shifting into the yard.
20. The Commissioner's report clearly indicates that all the infrastructure is ready and available to enable the traders to shift.
21. It is not possible for the traders to create a fiction that supari is different from areca and build a case that supari is different from areca. No foundation has been laid before this Court to show that supari is a different product from areca. On the contrary clinching materials have been placed before this Court by the learned Advocate General that areca in Karnataka is known as supari in North India and elsewhere. Merely because in some parts of India areca is known as supari cannot be the ground for holding that areca and supari are two different products.
22. No pronouncement of this Court or Supreme Court has been cited before us to show that supari is a different product from areca.
23. Looked at from any angle the traders who are trading in areca at Puttur will have to shift to the yard and not go on finding excuses one after the other.
24. Accordingly, I hold that there is no merit in the writ appeals and writ petitions and they stand dismissed.
25. I place on record the valuable assistance rendered by the learned Advocate General.