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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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WP No.5118 of 2012

ORDER :

This writ petition is filed seeking to issue writ of mandamus declaring the action of the 1st respondent in issuing the impugned final notice dated 13-02-2012 for eviction of the petitioner from the xerox and stationary shop which is under the name and style of Sri Sai Sudha Xerox Center, situated in front of the main gate of Dr.Reddy's Lab Limited, Unit-II (CTO-II), Bollaram Industrial Road, Bollaram Village, Medak District, as being illegal, arbitrary, discriminative and against the principles of natural justice and consequently direct the respondents not to evict the petitioner from the said shop and to pass appropriate orders thereon.

2. Facts stated are:-petitioner is an ex-serviceman and being so, he made an application to the 1st respondent-Gram Panchayat, Bollaram, for grant of allotment of vacant site in front of the main gate of Dr.Reddy's Lab Limited, Unit-II, Bollaram Industrial Road. That the 1st respondent accorded permission to the petitioner to construct a shed on the vacant site allotted to him and granted license for the period 1998-99. That thereafter the petitioner invested huge amounts for construction of shed and establishment of xerox

machine and stationary. That from the date of commencement of petitioner's business, the 1st respondent, from time to time has been renewing his license every year on payment of license fee, the last renewal valid upto 31-03-2012. It is further stated that while the matter stood thus, the 1st respondent issued show cause notice dated 31-01-2012 for removal of the said shop by giving three days time.

3. That in response to the said notice dated 31-01-2012, the petitioner made representation on 01-02-2012 requesting for extension of lease for some more time for recovery of dues from the customers. That after receipt of the representation of the petitioner, the 1st respondent issued the impugned final notice dated 13-02-2012 requiring the petitioner to evict from the shop on the ground that the said shop is encroached obstructing public convenience and accordingly the 1st respondent allowed 15 days time for vacating the shop in question by the petitioner. That it was also stated in the final notice that in case the petitioner fails to vacate from the said shop, within the time stipulated, the 1st respondent will take coercive steps for eviction of the petitioner from the said shop.

4. Grievance of the petitioner is that the action of the 1st

respondent in not following due process of law and taking coercive steps for his eviction from the said shop is illegal and arbitrary and that if such coercive steps are taken, he will be put to serious irreparable loss and hardship.

5. Counter affidavit is filed by the 1st respondent stating that the petitioner erected the shed by touching upon the compound wall of the Jindal company and the owners of the said company made a complaint to the District Panchayat Officer, Medak District, who in turn issued a memo dated 24-01-2012 to take necessary action to remove this shed of the petitioner. It is not denied that the petitioner is running the said shop for over 15 years, but due to objections raised by the owners of the Jindal company, that the shed erected by the petitioner was coming on to the road margin and it is also obstructing the free flow of traffic, the respondents has no option except seek for eviction from the said shop for free flow of the traffic.

6. Heard learned counsel for the petitioner, learned Standing Counsel for respondents 2 and 3 and learned Government Pleader for Panchayat Raj for 3rd respondent.

7. The reason assigned by the respondents in seeking to evict the petitioner from the said shop in question is that the petitioner has encroached upon the road margin and it is obstructing the free flow

of traffic. Whether the said shed erected by the petitioner is obstructing the free flow of traffic are all factors which are in the realm of the respondent-Gram Panchayat. In the absence of petitioner asserting any enforceable right, muchless a vested right to continue in the said shed, the action of the respondents in seeking to evict the petitioner from the shed in question cannot be held to be illegal or arbitrary.

8. In the circumstances, I do not find any merit in the writ petition and it is accordingly dismissed. Miscellaneous petitions, if any pending in this case are also stand dismissed. There shall be no order as to costs.

A.RAJASHEKER REDDY, J

Dated:12-10-2015
Nrg

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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