

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.25262 OF 2012

ORDER:

This writ petition is filed seeking to issue a writ of *Mandamus* to declare the action of respondent No.1 in issuing the notice, dated 28.4.2012, directing the petitioner School to vacate the building (Balabadi) without following the due process of law even though the lease is in force, as illegal and arbitrary.

2. Case of the petitioner is that the petitioner School is being run in Porumamilla Town for the last twenty years. Nearby the school, there is a building named Balabadi, which is in a dilapidated condition. The said building is under the control of respondent No.1 Gram Panchayat. With a view to provide additional accommodation to students, the petitioner approached respondent No.1 and submitted representation for giving the building in favour of the school on lease. The Gram Panchayat passed Resolution No.71(2) on 20.2.2010 granting lease for a period of three years in favour of the petitioner school on payment of Rs.2,400/- per annum. While so, respondent No.1 issued impugned notice, dated 28.4.2012, directing the petitioner to vacate the premises within three days and hand over the same to respondent No.1. Even though the lease is in force, respondent No.1 issued the said notice directing the petitioner to vacate the premises within three days. Hence, the present writ petition.

3. Counter-affidavit is filed by respondent No.1 stating that the petitioner School is being run in the building named Balabadi in Porumamilla Town. The said building was leased out to the petitioner by the then Sarpanch of the Gram Panchayat vide Resolution No.71(2), dated 20.2.2010, on payment of Rs.2,400/- per annum for a period of three years. It is not true to say that the petitioner has spent

huge amount for repairing the building.

The building existed on a land donated by Sri C.Narayana Reddy and Smt P.Sowbhagyamma in the year 1968 to Sri Prasanna Lakshmi Mahila Mandali and with the financial contributions by the villagers, a building was constructed on the said land to run a Balabadi on behalf of Mahila Mandali. Consequently, Balabadi was being run in the said building with the assistance of the Mandal Parishad by deputing a teacher by name S.Ystamma. The said building was also being used as polling station during elections as well as for community purposes. Till the year 2003, the said building was run by Mahila Mandali. The condition of the building eventually became dilapidated and had been almost abandoned, but for being used for some community purpose or as polling stations, and thus, also became a haunting place for anti-social elements. Since the building is a communal property under Section 55 of the Andhra Pradesh Panchayat Raj Act, 1994, the respondent Panchayat is vested with all rights pertaining to the said Balabadi property.

On receipt of complaint from the villagers alleging that Balabadi building is not being used in view of its dilapidated condition as a result, the building is being frequented by anti-social elements causing nuisance to the society, respondent No.2 directed respondent No.1 to get the said Balabadi building vacated. Being the subordinate authority, pursuant to such direction, notwithstanding the fact that the lease is still in force, respondent No.1, being the true custodian of the communal property, issued impugned notice, dated 28.4.2012, to the petitioner in the best interest of the society.

The lease of the Balabadi building was given to the petitioner in the year 2010 for three years only and the same shall end in the year 2013. As such, the petitioner School is also not carrying out any activity from the said premises. However, the fact lies that now, the

property value has increased many fold and in view of the meagre and negligible lease amount, the petitioner herein simply intends to keep hold of the communal property for reasons best known to it and hence, prayed to dismiss the writ petition.

4. No reply affidavit is filed by the petitioner.

5. Though the matter is listed under the caption “for Orders”, none appears for the petitioner.

6. Learned Standing Counsel appearing for the respondent Gram Panchayat submits that since the term of lease expired, the respondent Gram Panchayat issued notice; that the building is also in a dilapidated condition and as on today, no school is being run in the said premises.

7. Sri P.Veera Reddy, learned counsel appearing for respondent No.4, states that the property in question belongs to respondent No.4, but not Gram Panchayat, and in the absence of respondent No.4, when she went abroad, the same was leased out by the Gram Panchayat; that even otherwise, the term of lease expired by efflux of time and also the building is in a dilapidated condition and states that the cause in this writ petition does not survive.

8. It is not the case of the petitioner that petitioner filed any representation for extension of lease. In the counter, it is categorically stated that no school is being run in the said building and the building is in a dilapidated condition. Since the same is not in dispute and also as the building was already vacated, the cause in this writ petition does not survive and petitioner has no enforceable right which can be granted in the writ petition. Hence, there are no merits in the writ petition and the same is liable to be dismissed.

9. Accordingly, the Writ Petition is dismissed. There shall be no

order as to costs.

10. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.RAJASHEKER REDDY

Date: 08.09.2015

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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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