

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.38620 of 2015

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27.11.2015

Between:

Ashok Kumar Jain

.. Petitioner

and

The State of Andhra Pradesh,

represented by its Principal Secretary,

Endowments Department, Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.T.Surya Satish

Counsel for respondent Nos.1 and 2: Government Pleader for Endowments (AP)

Counsel for respondent No.3: Mrs.K.Lalitha,

standing counsel for Endowments (AP)

The Court made the following:

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ORDER:

The petitioner, who has overstayed the lease period in respect of shop No.2 belonging to respondent No.3 in Sri Brahmachari Babaji Mutt shopping complex, Mattam Lane, Canal Road, Vijayawada, filed a civil suit for injunction restraining respondent No.3 from interfering with his possession. However, the said civil suit was dismissed. Thereafter, the Fit Person of respondent No.3 has issued the notice, dated 14.11.2015, in *Form-A* under Rule 15 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Immovable Properties and Other Right (Other than Agricultural Lands) Leases and Licenses Rules, 2003, (for short ‘the Rules’) calling upon the petitioner to vacate the shop in question within fifteen days of receipt of the said notice and that failing which, he will be evicted by invoking the provisions of Sections 84 and 86 of the Andhra Pradesh Charitable and High Religious Institutions and Endowments Act, 1987 (for short ‘the Act’) treating him as an encroacher.

At the hearing, Mr.T.Surya Satish, learned counsel for the petitioner, submitted that in spite of issuing the abovementioned notice, respondent No.3 has been trying to forcibly evict his client from the shop in question.

Mrs.K.Lalitha, learned standing counsel for Endowments (AP) appearing for respondent No.3, submitted that recently the State of Andhra Pradesh has issued

G.O.Ms.No.426, Revenue (Endowments-I) Department, dated 09.11.2015, under which, Rule 15 of the Rules was amended by incorporating a provision that if a person in occupation of the leased properties fails to hand over the same, the Executive Authority shall evict such person with the assistance of Police invoking the provisions under Sections 84 and 86 of the Act treating him as an encroacher in the order passed under Section 83(4) or Section 85(1) of the Act. She has accordingly submitted that as the lease in favour of the petitioner has expired, he is liable to be treated as an encroacher even in the absence of an order passed under Section 83(4) of the Act and that therefore, respondent No.3 is entitled to evict him by following the procedure under Section 84(1) of the Act.

Since the validity of the amendment under the abovementioned G.O. is not questioned in this writ petition, it is not necessary for this Court to examine whether the amended provision is valid or not. However, even if respondent No.3 treats the petitioner as an encroacher, it shall follow the procedure as indicated under the aforesaid notice, dated 14.11.2015.

Subject to the above observations, the Writ Petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P.No.49711 of 2015 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

27th November, 2015

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