

THE HON'BLE SRI JUSTICE A. RAJASEKHAR REDDY

WRIT PETITION No.2295 of 2015

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Between:

Gottumukkala Peddi Nagaraju

PETITIONER

AND

1. The State of Andhra Pradesh rep. by its Principal Secretary, MA & UD, Secretariat, Hyderabad, and others.

RESPONDENTS

ORDER:

Challenging the action of respondents 2 and 3 in issuing notice No.17979/Zone-II/Ward No.15, dated 13.01.2015 to the 5th respondent, owner of the building in which the petitioner is residing as a tenant, directing to remove G + 2 floor building at Door No.43-20-6 of Allipuram Ward, Dondaparthy, Visakhapatnam, within 7 days from the date of notice, the present writ petition is filed.

The petitioner is stated to have been residing in the ground floor of the premises bearing Door No.43-20-6 of Allipuram Ward, Dondaparthy, Visakhapatnam as a tenant of the 5th respondent for the last 15 years. The said building was constructed about 30 years back. The 3rd respondent issued the impugned notice dated 13.01.2015 calling upon the 5th respondent to remove ground + two floors within 7 days on the ground that the building is in dilapidated condition. Aggrieved by the same, the petitioner-tenant filed this present writ petition.

Learned counsel for the petitioner submits that though the building is in good condition without issuing any notice to the petitioner, at the instance of the 5th respondent the 3rd respondent issued the impugned notice in violation of the principles of natural justice and against the provisions of the Hyderabad Municipal Corporation Act, 1955 and the Rules made thereunder.

When the matter came up for hearing on 6.02.2015, this Court granted status quo while directing the learned Standing Counsel to produce the inspection report to know as to what is the basis for

issuing the impugned notice.

To day the learned Standing Counsel has produced a copy of the proceedings signed by the Assistant Engineer, Deputy Executive Engineer and Executive Engineer, Zone-IV, stating that they have inspected the premises in question and found that the said building is in dilapidated condition and the same is not suitable for living in the existing condition.

Learned counsel appearing for the 5th respondent submitted that since the building is in dilapidated condition, the 5th respondent has made a representation to the Municipality and basing on the same the Municipal Authorities inspected the building and accordingly initiated the action.

Having regard to the fact that the proceedings signed by the Engineers clearly shows that the building is not fit for living and the same is in dilapidated condition, neither this Court nor the petitioner can substitute the said opinion of the experts. This Court also cannot conduct any roving enquiry as to whether the building is fit for living or in dangerous condition. A notice was issued to the 5th respondent-owner and he agreed for demolition of the building. If the petitioner is allowed to continue in the said building, it will endanger his life and hence, this Court cannot continue the interim order and allow the petitioner to reside in the premises. It is in the interest of the petitioner he has to vacate the building so that the same can be demolished. This Court cannot interfere in the matters of this nature.

In the considered opinion of this Court putting the owner on notice is sufficient. No provision is brought to the notice of this Court which mandate notice to tenants in case dilapidated buildings are to be demolished. No owner will be willing for demolition of his house, which is in good condition for the sake of tenants. The writ petition is misconceived and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

A. RAJASEKHAR REDDY, J.

10th February, 2015
Js.