

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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WRIT PETITION No.12195 OF 2015

ORDER:

This writ petition is filed for a *Mandamus* declaring the proceedings dated 13.01.2015 of the 3rd respondent directing the petitioner to close his watch repair shop or else they would remove the same within three days, as arbitrary, illegal, unjust and violation of Article 21 of the Constitution of India.

The case of the petitioner is that his father was running a watch repair shop in the premises bearing No.6-2-1010/3, Khairatabad, Hyderabad, since 40 years and thereafter, he is running in the private premises belonging to the 4th respondent as a tenant; that as the disputes arose between the petitioner and the 4th respondent, the 4th respondent filed R.C.No.46 of 2014 on the file of III Principal Rent Controller, Hyderabad, and the same was pending; that with the influence of the 4th respondent, the 3rd respondent issued the impugned notice dated 13.01.2015 under Section 402 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), stating that the petitioner had erected a bunk for watch shop on footpath margin, which is causing obstruction and inconvenience to the pedestrians and general public of the locality and directed to remove the said encroachment within 3 days. Aggrieved by the same, this writ petition is filed.

Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration appearing for the 1st respondent and Sri P.Kesava Rao, learned Standing Counsel appearing for respondents 2 and 3.

Learned counsel for the petitioner submits that there is a dispute with regard to relationship of landlord and tenant between the petitioner and the 4th respondent, and the same is pending before the Rent Controller and only basing on false

complaints of the 4th respondent, the impugned notice was issued.

Learned Standing Counsel for respondents 2 and 3 submits that since there is an encroachment of foot path by the petitioner, the same was directed to be removed, by exercising the powers under Section 402 of the Act.

A reading of the impugned notice shows that the petitioner has encroached the foot path and basing on a complaint he was directed to remove the said encroachment. The foot path is meant for pedestrians and if the same is encroached, the public has to face a lot of inconvenience, which would lead to accidents. It was also held by the Apex Court that respondent-Authorities have to remove all encroachments on the foot paths and public roads. Hence, this Court will not interdict by exercising the powers under Article 226 of the Constitution of India. Hence, I do not see any merit to entertain this writ petition.

Accordingly, this Writ Petition is dismissed. No order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

29.04.2015

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