

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

W.P.No.36454 of 2012

Between:

Shaik Riyaz

... Petitioner/Appellant (s)

And

Municipal Commissioner
and 2 others.

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: 13.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

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| 1 | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be
marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see
the fair copy of the Judgment? | Yes/No |

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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION NO.36454 OF 2012

ORDER:

The case of the petitioner is that he is the owner and possessor of the house bearing municipal No.7/7, Chinnapeerla Panja, Islampet, Mangalagiri town, Guntur District and the said house is situated in the residential area. While so, the 2nd respondent who is the owner of the house bearing No.7/6 in the same locality has leased out the said house to the 3rd respondent. The 3rd respondent has opened Chicken shop, poultry farm in the said house since June, 2012 without obtaining license and has been causing nuisance by dumping the waste material in the surrounding areas from which foul smell is emanated polluting the surrounding areas. Complaining about the same, the petitioner along with local people made a representation to the 1st respondent requesting to remove the chicken shop and poultry farm. As no action has been taken, the present writ petition is filed.

Counter is filed by the 1st respondent stating that the 3rd respondent is having D & O trade license. Basing on the complaint made by the petitioner, the 1st respondent directed the Sanitary Inspector to conduct enquiry and the Sanitary Inspector after inspection submitted a report stating that there are untidy conditions around the chicken stall and foul smell is emanating from it polluting the area and causing nuisance to the public. Subsequently, a notice was issued on 25.06.2012 ordering the 3rd respondent to remove the chicken stall. It is also submitted that the 1st respondent received an application on 05.07.2012 from the 3rd respondent stating the he has been paying Municipal tax (D&O trade license) regularly and running the chicken stall neatly in good sanitary conditions by disposing the waste from to time and requested to ignore the complaint. It is further stated that one Sk.Ameer also made complaint against the 3rd respondent 16.07.2012 and basing on his complaint, a report was submitted to District

Collector on 04.08.2012 and the issue was placed before the Council. Thereafter, the Council has cancelled the D & O trade license of the 3rd respondent vide order 18.08.2012 by issuing notice. On 06.12.2012, a final notice was issued asking the 3rd respondent to remove the chicken stall within 3 days.

Learned counsel for the petitioner submits that though notices were issued, the 3rd respondent has not removed the chicken stall as on today.

On the other hand, learned Standing counsel for the 1st respondent submits that action has been initiated against the 3rd respondent.

In the present case, though notices are served on the 3rd respondent, there is no appearance on behalf of him and no counter is filed. But it cannot be said that the action has not been initiated by the 1st respondent on the representation of the petitioner. Since it is stated that the 3rd respondent has not removed his chicken stall in pursuance to the notices issued by the 1st respondent, it is for the 1st respondent to take action for removal of chicken stall preventing the 3rd respondent from carrying on his business, in accordance with law.

With the above direction, the writ petition is disposed of. There shall be 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

13.08.2015
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