

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

-

WRIT PETITION No.31419 of 2012

ORDER:

-

This writ petition is filed declaring the individual notices issued by the 3rd respondent to the petitioners vide proceedings in ROC.No.210/G1, dated 12-09-2012 directing for eviction of the shops of the petitioners as illegal and arbitrary.

The case of the petitioners is that all the petitioners are petty vendors and doing business by establishing small shops along the road from RTC bus stand to Kummaramkatta and Racherla Gate Centre under foot path of both sides of Ongole to Nandyal road Giddaluru for the last thirty years with the consent of the 3rd respondent and there was no objection from the general public. It is further case of the petitioners that the shops are not on footpaths or on road margins to cause inconvenience to any persons with respect to their ingress or egress on the roads or on the footpath.

The 3rd respondent also issued licenses to them for running their respective shops. Similarly situated persons i.e. Sri Allagadda Sreeramulu and 31 others filed W.P.No.964 of 2012 to declare the action of the

1st respondent in trying to dispossess them without following due procedure as illegal and arbitrary. The said writ petition was disposed of directing the respondents to follow the procedure. The 3rd respondent herein issued notice in ROC.No.210/G1, dated 12-01-2012 directing the petitioners to remove the shops. Aggrieved by action of the respondents, the petitioners filed this writ petition.

Counter is filed by the 3rd respondent-Corporation admitting that the petitioners are doing petty business by establishing some shops along the road from RTC bus stand to Kummaramkatta on both sides of Ongole-Nandyal highway. It is stated that the petitioners occupied road margin site and erected bunks on drainage canal. It is denied that the petitioners are doing business for the last 30 years with the consent of 3rd respondent and that there was no objection from any authority. It is also denied that the shops are not on road margin. The shops are causing inconvenience to the public and hazardous to the public health and causing inconvenience to this respondent to clean the drainage from the channels on account of the shops. It is also denied that the 2nd respondent tried to dispossess the petitioners without due process.

It is submitted that this respondent addressed a letter to the 2nd respondent in ROC.No.131/2012/F1, dated 06-08-2012 by referring the letter

dated 15-05-2012 of the 4th respondent and requested to take appropriate action to remove the shops as they are on the road side. It is denied that the 2nd respondent, afraid of the letter given by 4th respondent, was coming to the shops and insisting the petitioners to remove the shops and that the place on the side to the drainage channel is not used by anybody as foot path and that the shops are not on the road margin. It is submitted that as the encroachments are on the road margin and individual notices were issued to the petitioners to remove the shops on their own. That the petitioners are encroachers of road margins by erecting bunks and running business between RTC bus stand and Kummaramkatta, abutting Giddalur and Nandyal Highway. Since the shops are on the side of canal becoming hazardous to Nagara Panchayat to clean the drainage and due to stagnation of water therein, hazardous to the

public health. The 4th respondent set a letter dated 15-05-2012 to the 3rd respondent. Basing on said letter and due to inconvenience to the public, this respondent addressed a letter to the 2nd respondent for removal of the shops. Hence, impugned notices were issued to the petitioners.

Learned counsel Sri M.Subba Reddy for the petitioners states that the appeal has been filed before the Revenue Divisional Officer (R.D.O.) against impugned notices and the petitioners are doing business for the last 30 years and all of a sudden they were evicted. He also relied on judgment, dated 12-01-2012, of this Court in W.P.964 of 2012.

On the other hand, Sri Nimmagadda Venkateshwarlu for R-3 submits that the petitioners are encroachers on the road margin, as such they have no right to continue their business. He also submits that in the counter affidavit, it is specifically pleaded that the petitioners are encroachers on the road margin. As such, they are not entitled to do business. Even as per the judgment relied upon by the counsel for the petitioner in W.P.No.964 of 2012, it has to be seen that though the petitioner stated that the shops are on road margins and for all these years, the petitioners have obtained licenses from the municipal Corporation and doing business and in the counter, it is specifically pleaded that all the petitioners are doing business on the road margins and drainage canal and the same is not disputed by the petitioners.

Merely because, petitioners were granted licenses, they have no right to occupy public road and drains which are meant for free flow of traffic and drainage. It is the duty of the respondent-Corporation to see that public roads are not encroached. Now the respondent-Corporation has taken decision to evict the petitioners and the same cannot be found fault. Even in the judgment relied on

by the counsel for the petitioners, it is held that if the petitioners have made encroachments, they need not be given notices. In view of the same, I do not find any merit in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, it is left open to the petitioners to avail alternative remedy against the impugned proceedings. As a sequel thereto, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

A.RAJASHEKER REDDY,J

25-08-2015

Nvl

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITON No.17618 of 2014

Date: 02.07.2014

Nvl

