

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.36688 of 2015

Date:12.11.2015

Between:

Shaik Beebi,

W/o Late Mudin and six others.

..... Petitioners

And:

The State of Telangana, repled by its

Principal Secretary, Municipal Administration

Department, Hyderabad and four others.

.....Respondents

Counsel for the Petitioners: Mr. Pulla Rao Yellanki

Counsel for Respondent No.1: AGP for Municipal Administration(TS)

Counsel for Respondent Nos.2 & 3: AGP for Revenue (TS)

The Court made the following:

ORDER:

This Writ Petition is filed by the petitioners, who are seven in number, assailing final notice in Roc.No.TPS/582/2015, dated 06.11.2015, issued by respondent No.5.

On the facts pleaded by the petitioners themselves, they are encroachers of the Government land. The building in which the petitioners have been residing is located in a market place and respondent No.5-Municipality has passed a resolution on 30.4.2015 to demolish the said building as, the same was in a dilapidated condition and to construct a new building for running market and that it proposes to spend Rs.25 crores sanctioned by the State Government for this purpose. When a notice for evicting the petitioners and others was issued on 16.6.2015, they have filed Writ Petition No.24967 of 2015. By order, dated 07.8.2015 in WPMP.No.32407 of 2015 filed in the said Writ Petition, this Court directed the respondents to follow due process of law before taking coercive steps against the petitioners therein. The petitioners averred that they have filed Contempt Case No.1568 of 2015 alleging willful disobedience of the said order and that the same is pending.

The present Writ Petition is filed feeling aggrieved by final notice in Roc.No.TPS/582/2015, dated 06.11.2015, issued by respondent No.5. A perusal of the said notice shows that it was issued under Section-194 of the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act'), wherein it is alleged that the petitioners are in illegal and unauthorised occupation of the municipal market area mulgis/shops and that therefore they are instructed to remove the said illegal and unauthorised occupation within seven days from the date of receipt of the notice, failing which, the unauthorised occupation will be removed under Section-360 of the Act.

At the hearing, Mr. Pulla Rao Yellanki, learned counsel for the petitioners, submitted that the building in occupation of his clients is not vested in respondent No.5-Municipality. The petitioners have, however, failed to trace the title over the said building either in themselves or in any one else other than respondent No.5-Municipality. They candidly admitted that they are in occupation of the public property. It is not in dispute that the building in occupation of the petitioners is situated in a market area which is vested in respondent No.5-Municipality.

From the contents of the impugned notice, it is evident that all persons who are similarly situated to that of the petitioners have vacated the premises in their occupation to enable respondent No.5 to demolish the building and construct a new building for running a market. Evidently, the petitioners who have developed vested interest in public property do not want respondent No.5 to construct a new building for running a market. Therefore, this Court in exercise of its discretionary jurisdiction under Article-226 of the Constitution of India shall not extend aid to the petitioners who absolutely lack *bona fides*. Hence, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, W.P.M.P.No.47257 of 2015 shall stand dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

12th November, 2015

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