

THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6229 OF 2015

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ORDER:

In this writ petition, the petitioner seeks a writ of Mandamus to declare the action of the subordinates of the 2nd respondent in threatening to dispossess him from the premises bearing No.3-1-321 situated at Nimboliadda, Kachiguda, Hyderabad, where boys hostel is running, without issuing any notice and without following the due process of law, as illegal and arbitrary.

The case of the petitioner is that he obtained second and third floor and also pent house portion in premises bearing H.No.3-1-321, admeasuring 800 sq. yards situated at Nimboliadda, Kachiguda, Hyderabad, on monthly rental basis from the landlord viz., Are Katika (Suryavamshi) Sangh for the purpose of running boys hostel in the name and style of A.K.Boys Hostel. To that effect, lease agreement was executed in his favour on 20-01-2003 and the said lease is for a period of 18 years. As per the terms of the lease agreement, he made construction and started running boys hostel peacefully without any disturbance and completed 12 years of lease. He invested huge amounts for construction and development of the said building. He has been regularly paying monthly lease amount and the same is enhanced from time to time.

It is further stated that as per the terms of the lease, if the landlord intends to evict him from the said premises, he has to repay the construction cost and only on receipt of the said amount, the petitioner has to vacate and handover possession. While so, some unknown persons claiming to be the members of the Society are visiting his hostel and causing inconvenience and threatened him to vacate from the premises in question. Similarly, the other tenants have also faced inconvenience. As such, he along with other tenants have filed suit O.S.No.45 of 2012 on the file of the X Junior Civil Judge, City Civil Court, Hyderabad, against the Society as well as General Secretary of the Society for perpetual injunction, wherein temporary injunction was granted in I.A.No.3 of 2012 on 18-08-2012.

It is further stated that the Society and its members having failed to succeed in their attempts, appears to have instigated the officials of the 2nd respondent Corporation, who in turn came to his hostel premises on 10-03-2015 and threatened him to vacate and handover possession within a week stating that they are proposing to seize the building for non-payment of property tax. In fact, the petitioner is nothing to do with the property tax or the affairs of the Society and if at all the Society is due any property tax, the 2nd respondent shall take action against the members of the Society. The petitioner is in possession of the premises by virtue of lease agreement, which expires in the year 2021. The officials of the 2nd respondent without issuing any notice and without following the due process, threatened to dispossess him from his lawful possession. It is stated that more than 150 students are taking shelter in the said hostel and he has invested huge amount and also collected advances from the students and the examinations are likely to commence and at this point of time, if the 2nd respondent succeeds in his attempt to dispossess him without following due process of law, serious prejudice would be caused to the petitioner. Aggrieved by the same, the present writ petition is filed.

Heard the learned counsel for the petitioner and Sri R.Radha Krishna Reddy, learned Standing Counsel for GHMC.

On instructions, learned Standing Counsel submits that neither the owner nor occupier of the building in question is paying municipal tax to the respondent Corporation and as such, the respondent officials visited the premises for collection of Municipal Tax and they never threatened the petitioner to dispossess from the building in question.

On the other hand, learned counsel for the petitioner submits that without issuing any notice, the respondent authorities visited the premises for collection of Municipal Tax.

Learned Standing Counsel submits that under Section 276 of the GHMC Act, the occupier is liable to pay municipal tax,

In view of the same, it is open to the respondent Corporation to issue notice to the petitioner under Section 276 of the GHMC Act with regard to collection of tax and take appropriate action in accordance with law.

As a sequel thereto, miscellaneous petitions pending in this writ petition, if any, shall stand closed.

12th March, 2015.

THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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WRIT PETITION No.6229 OF 2015

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Dated 12-03-2015

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