

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.39577 of 2015

Date:07.12.2015

Between:

Chaluvadi Venkata Satya
Anand Kumar, S/o Late Kotisuryam
and another.

..... Petitioners

And:

The State of A.P., repled., by its
Principal Secretary, Municipal Administration
and Urban Development, Hyderabad
and three others..

.....Respondents

Counsel for the Petitioner: Mr. Sai Gangadhar Chamarty

Counsel for Respondent No.1: GP for Municipal Admn. (AP)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the action of respondent Nos.2 and 3 in locking and sealing the petitioners' premises, in pursuance of final notice bearing Rc.F9-121380/2015, dated 28.11.2015, issued by respondent No.2 as illegal and arbitrary.

The petitioners have taken the ground floor of premises of building bearing Door No.27-23-46 of Gopala Reddy Road, Governor Pet, Vijayawada, on lease from respondent No.4, for carrying on the trade in certain

chemicals and laboratory mirrors. Respondent No.4, who is the landlord, has declined to renew the lease and instituted eviction proceedings against the petitioners as far back as the year 1982. Since then, the dispute between the petitioners on one side and respondent No.4 on the other is going on. By decree, dated 13.11.2015, in R.C.C.No.84 of 2012, the Rent Controller-cum-IV Additional Junior Civil Judge, Vijayawada, has ordered the petitioners' eviction from the subject premises. As of now, the said decree is in force. Respondent No.2 has issued the impugned notice, wherein it was pointed out that as per the extant bye-laws, the petitioners have to produce a copy of the lease deed enabling them to use and occupy the premises and therefore, the petitioners were called upon to produce the lease deed. The petitioners were further directed not to carry on any trade/operation in the said premises until renewal of the trade license.

Mr. Sai Gangadhar Chamarty, learned counsel for the petitioners, submitted that there is a serious dispute between the petitioners-tenants and respondent No.4-landlord and that therefore, respondent No.2 is not justified in issuing the impugned notice.

Mr. T.Balaswamy, learned Standing Counsel for respondent No.2, on instructions, submitted that no exception can be taken to the impugned notice and that as per the bye-laws, the petitioners are bound to produce the existing lease deed in respect of the premises in which they are carrying on the trade for the purpose of renewal of license and that as the license has not been renewed, the petitioners cannot be permitted to carry on the trade. He has further submitted that on their request, the petitioners were handed over the keys by respondent No.2.

Admittedly, the petitioners suffered an order of eviction and they have failed to produce the lease deed or No Objection Certificate from the landlord, i.e., respondent No.6, which is a *sine qua non* for renewal of the trade license. Unless the trade license is renewed, the petitioners cannot be permitted to carry on the trade. Therefore, I do not find any illegality in the impugned notice calling upon the petitioners to produce the lease deed for considering their application for renewal of the trade license.

As regards the grievance of the petitioners that respondent No.2 has put the premises under the lock and key, in my opinion, the petitioners cannot be deprived of possession of the demised premises. The power and jurisdiction of respondent Nos.2 and 3 will extend only to the extent of preventing the petitioners from carrying on the trade in the said premises till the trade license is renewed. The petitioners' continuance in the subject premises depends upon the outcome of the dispute between them and respondent No.4 and respondent Nos.2 and 3 have no say whatsoever in this regard.

In this view of the matter, respondent Nos.2 and 3 shall not interfere with the petitioners' possession of the subject property. However, if the petitioners carry on the trade without valid license, the respondents are entitled to take appropriate civil and criminal action against the former.

Subject to the above observations and directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, W.P.M.P.No.51051 of 2015 shall stand disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*07th December, 2015
DR*