

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 23719 of 2009

ORDER :

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This writ petition is filed seeking writ of mandamus declaring the action of the 1st respondent in issuing licence to the 2nd respondent in residential premises bearing M.No.2-2-253/9, Shanthinagar Colony, Tandur of Ranga Reddy District, permitting him to run a Lodge in residential zone vide proceedings No.F/165/2007, dated 12.10.2009, without considering the objections filed by the petitioner and the residents of the colony as illegal and arbitrary.

2. It is the case of the petitioner that he is resident of Shanthinagar Colony, Tandur of Ranga Reddy District. The Municipal Council notified the area as residential zone as per Section 268 (1) of the A.P. Municipalities Act, 1965. As per Section 268 (3) (a) of the Act, if a particular land is notified and declared as an area reserved for a particular purpose, shall not be used for any other purpose and that the use of the land in any reserved area shall be confined only for which the area is reserved. The 2nd respondent, who is the owner of house bearing No.2-2-253/9, situated in Shanthinagar Colony, made an application to the 1st respondent on 17.09.2009 seeking permission and licence for running a lodge in the said premises. Though the petitioner and other residents of the locality have objected for the same, the 1st respondent, without notice to the petitioner, issued licence to the 2nd respondent vide proceedings No.F/165/2007 dated 12.10.2009. Aggrieved by the same, the present writ petition is filed.

3. Counter affidavit is filed by the first respondent denying the averments of the affidavit filed in support of the writ petition stating that the house bearing No.2-2-253/9, Shanthi Nagar Colony, Tandur,

R.R.district is not a residential area. As per G.O.Ms.No.422 of 2002 issued by the Government notifying the Master Plan of Tandur Municipality, the area where the 2nd respondent established large is notified as a commercial area. It is stated that the representation of the colony people had reached the office after the licence under file No.F/165/2007, dated 12.10.2009. That the area in which the 2nd respondent's lodge is situated is surrounded with Cinema Theatre, supermarket, restaurants & other shopping complexes and it is very near to the Tandur Bus Stand and Bus Depot. On the representation of the locality people, this respondent issued notice to the 2nd respondent. The 2nd respondent replied to the notice stating that he has not involved in any criminal activities and that the said lodge has got its own parking place. Not satisfied with the reply of the 2nd respondent, show-cause notice under file No.F/747/2009, dated 24.10.2009 was issued to the 2nd respondent. After issuance of show-cause notice, the 2nd respondent filed O.S.No.133/2009 before the Junior Civil Judge, Tandur, R.R.District and granted *status quo* orders in I.A.No.590 of 2009. As such, this respondent has not taken any further action in this regard. There was a bar and restaurant in the ground floor and the subject lodge licenced is in the first floor of the building.

4. Heard Sri Molugu Krishna Reddy, learned counsel for the petitioner and Sri N.Praveen Kumar, learned Standing Counsel for the 1st respondent-Municipality.

5. Since it is stated that already show-cause notice dated 24.10.2009 was issued to the 2nd respondent and after issuance of said notice, the 2nd respondent filed I.A.No.590 of 2009 in O.S.No.133 of 2009 and obtained orders of *status quo* before the Court below, it cannot be said that the first respondent has not

initiated any action against the 2nd respondent.

Be that as it may, in the counter affidavit of the 1st respondent, it is averred that the area in which the 2nd respondent established lodge is not a residential area, as it is surrounded by cinema theatre, supermarket, restaurants and other shopping complexes. Since the *status quo* orders in I.A.No.590 of 2009 in O.S.No.133 of 2009 are said to be in operation and the first respondent had initiated action against the 2nd respondent, it is for the 1st respondent to take further action in accordance with law, after vacation of the *status quo* orders in I.A.No.590 of 2009 before the Court below.

In view of above discussion, this writ petition is disposed of directing the 1st respondent to initiate action in accordance with law, as and when *status quo* orders against the 1st respondent are vacated.

There shall be no order as to costs. As a sequel thereto, miscellaneous applications, if any pending in this Writ Petition, shall stand closed.

A.RAJASHEKER REDDY, J

15.09.2015.

KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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