

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.768 OF 2015

ORDER

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This writ petition is filed for a writ of mandamus declaring the Notice vide No.ACP/TPS/C9/CZ/HMS/2015, dated 07.01.2015 issued by the 3rd respondent, as illegal and arbitrary and for a consequential direction to the respondents not to interfere with the premises of the petitioner's society.

The case of the petitioner is that the then Municipal Corporation of Hyderabad allotted the land admeasuring 255 sq.yards vide Door No.1-3-1026/1 on lease in favour of Sri.B.Rajkumar Satti, S/o. B.Narsimha on 29.05.1984, initially, for a period of 10 years and the same was extended from time to time. Thereafter, the said B.Rajkumar Satti leased the said property in favour of one Sri V.Venkateshwar Rao, S/o. V.Shivalingam and the said person was paying the municipal taxes and other charges regularly. Thereafter, after the death of the original allottee i.e., B. Rajkumar Satti, the said Sri V.Venkateshwar Rao surrendered his lease to the son of B.Rajkumar Satti i.e., B.Srinivas. Subsequently, the said B.Srinivas executed a lease deed dated 28.11.2014 in favour of the petitioner for a period of 5 years from the date of execution of the lease.

In pursuance of the same, the Prohibition and Excise Superintendent, Secunderabad granted license to the petitioner's society for sale of toddy. It is also submitted that meanwhile, the respondents issued a show cause notice dated 23.04.2010 to Sri Rajkumar Satti stating that the lease period has expired and to show cause as to why the order of eviction should not be made against him. It is further submitted that petitioner's society and before that V.Venkateshwar Rao has paid the municipal taxes to the respondents, regularly. Now, the 3rd respondent issued impugned notice dated

07.01.2015 directing the petitioner society to produce the sanctioned plan/relevant documents for verification within (3) days otherwise, the petitioners will be evicted from the said premises. Aggrieved by the same, the present writ petition is filed.

Heard both sides.

Learned counsel for the petitioner submits that the petitioner has obtained licence for the sale of toddy from the Excise Department and that the respondents are trying to evict the petitioners without following due process of law.

On the other hand, learned Standing Counsel for respondents on instructions submits that the lease period was only for a period of 10 years and the same was expired long back and thereafter there was no extension of lease. Therefore, the respondent authorities have issued notice directing the petitioner to produce the relevant documents. He further submits that the respondents are taking action only after issuing the impugned notice.

The claim of the writ petitioner is that they have obtained lease from B.Srinivas, son of B.Satyanaraya @ B.Rajkumar Satti who is the lessee of the Municipal Corporation. In the lease dated 29.05.1984 between the Municipal Corporation and B.Rajkumar Suti, produced by the petitioner there is no mention anywhere showing that Raj Kumar Suti is also known as Rajkumar Goud. The period of lease is only for a period of 10 years with effect from 01.04.1983 and that expired long back. No document is filed showing lease period is extended. The said lease deed also gives power to Municipal authorities to determine the same at any time. More so, petitioner is not party to the same. Impugned notice is to produce sanctioned plan and petitioner does not state that he has sanctioned plan, which goes to show the erected structures without sanctioned plan. The impugned notice dated 07.01.2015 is only to produce sanctioned plan/relevant documents. As such, the writ petition is misconceived. Just because the Excise

Department granted license to the petitioner to establish the toddy shop for the sale of toddy, it does not confer any right in the petitioner to run business in the land belonging to the Municipal Corporation, Hyderabad. Even as per the lease deed dated 29.05.1984 produced by the petitioner, it is found that the lease period has expired long back, as such, the Municipal authorities have rightly taken action. More so, the impugned notice is only a notice to the petitioner to produce the relevant documents. It is an admitted fact that property belongs to Municipal Corporation and lease period has expired long back, the petitioner has not obtained permission from the Municipal Corporation for establishing the shop for the sale of toddy. In spite of the same, they filed the present writ petition. In view of the same, I do not find any merit in the writ petition and is liable to be dismissed. As such, the writ petition is dismissed with costs quantified at Rs.10,000/- payable to the Legal Services authority within a period of four (4) weeks from the date of receipt of copy of this order. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 30.01.2015

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