

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NO.22557 of 2015

Between :

New Green Stores Medical and General Stores,
Rep., by Gurumukhdas A Mangnani S/o.Santumal,
Hindu, Aged about 75 yrs, Occu : Business in premises
No.5-8-270 and 5-8-271, Public Gardens Road,
Nampally, Hyderabad.

.. Petitioner

and

The Commissioner,
Greater Hyderabad Municipal Corporation, Tank Bund road,
Hyderabad & others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED : 03.08.2015

-
SUBMITTED FOR APPROVAL:

-
-

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

-
-

1. Whether Reporters of Local Newspapers : Yes / No
may be allowed to see the Judgments ?
2. Whether the copies of judgment may be : Yes / No
marked to Law Reporters/Journals
3. Whether Their Lordship wish to : Yes / No
see the fair copy of the Judgment ?

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

-
-
WRIT PETITION No.22557 of 2015

-
ORDER :

Heard learned counsel for the petitioner and learned Standing Counsel for Respondents 1 and 2.

2. The petitioner claims to be running Medical and General stores in premises bearing Municipal No.5-8-270 and 271, Public Gardens Road, Nampally, Hyderabad, as a tenant of the property. According to the petitioner a marking is made on the shop walls that the existing road in front of the shop is going to be widened and property to an extent of 31.7" in width and 12.6" in length is going to be affected and the same would be demolished. Alleging that the respondent-Municipal Corporation is taking steps to demolish the same, this writ petition is filed. It is also contended that there is an inter se dispute between the petitioner and the owner of the property and the owner of the property instituted O.S.No.1517 of 2013 which is pending on the file of I- Senior Civil Judge, City Civil Court, Hyderabad. The said suit is instituted to grant an order of ejectment, mesne profits against the petitioner. The petitioner contends that this is a unique structure and the respondent-Corporation intend to demolish a portion of the subject building for the purpose of widening the road, to which the petitioner has no objection, but the rest of the property in the occupation of the petitioner should not be affected. The demolition should be taken up in a scientific manner affecting only the extent of the property required by the Corporation without affecting the remaining extent of property.

3. Counter affidavit is filed on behalf of respondents 1 and 2 deposed by K.Sambaiah, working as Assistant City Planner, Circle-VIII, GHMC, Hyderabad. According to the averments in the counter affidavit, it is true that the property referred to above is likely to be affected for widening of the road. But the issue of acquisition is not finalized. The Corporation is in the process of undertaking private negotiations with the owner of the property and the said negotiations are yet to be finalized and so far steps are not taken for demolition of the property in which the petitioner claims to have established a retail medical stores for widening of the road. The respondents 1 and 2 denied the allegation of the petitioner of collusion with the 3rd respondent. There is no

such requirement for the respondents to collude with the owner of the property who is a private individual and the property would be acquired, by following due process and then only possession and demolition to the extent required would be taken.

4. Thus, the averments in the counter affidavit filed by respondents 1 and 2 disclose that so far the issue of acquisition of property is not finalized and unless and until the acquisition proceedings are finalized and appropriate compensation or other understanding is reached between the Corporation and the private owner of the property, the question of taking possession and demolition of structures would not arise. Thus, the writ petition is instituted even before any such action is taken.

5. The grievance of the petitioner, as noticed above, is only confined to demolition of property required to the extent by the Municipal Corporation and the remaining extent of property should not be affected by such demolition. Such a cause would arise only when the steps are being taken by the Corporation to demolish the property after the acquisition proceedings are finalized. Thus, the writ petition is premature and is accordingly dismissed. However, it is left open to the petitioner to work out his remedies as and when the respondent-Corporation take steps to demolish the property in which a retail outlet of the petitioner is stated to have been located. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

P.NAVEEN RAO,J

03rd August, 2015.
Rds