

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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WRIT PETITION No.32304 of 2015

ORDER:

This writ petition is filed with the following prayer:

“Therefore it is prayed that this Hon'ble Court may be pleased to issue a writ, order or directions more particularly writ of mandamus declaring the action of the 3rd respondent in not following the injunction orders and granting the license/permission to establish the wine shop/permit room to sell IMFL/FL Liquor in petitioner's property bearing H.No.3-5-8 Ward No.7 Ramanthapur Uppal Hyderabad is arbitrary & illegal consequently direct the 3rd respondent not to grant any license/permission to sell the IMFL/FL liquor in the said petitioner/s property H.No.3-5-8 and pass such other order or orders as the Hon'ble Court deems fit and proper in the interests of justice.”

By order dated 01.10.2015, this Court took note of the fact that the provisional licence had already been granted on 26.09.2015 and directed *status quo* as on that day to be maintained by the parties.

Vacate stay petitions having been filed by the State, respondent No.5 and respondent No.6 independently, this Court finds that the contentious issues sought to be raised in this writ petition would not fall for decision in a writ petition filed under Article 226 of the Constitution.

Sri Mohd.Asifuddin, learned counsel, would contend that an implead petition has also been filed by his client, who is the tenant of the writ petitioner, and that he would require to be heard in the matter.

Sri Mohd.Mumtaz Pasha, learned counsel for the petitioner, would seek to raise several issues in the context of the disputes between his client and respondent Nos.4 and 5. He would further submit that the property in question is also the subject-matter of proceedings pending before the Income Tax Department.

Having given due consideration to the matter, this Court is of the

opinion that all these issues do not arise for adjudication in this writ petition. The only grievance of the petitioner as is evident from his prayer in this case was that the State excise authorities were granting an excise licence to establish a wine shop in the subject property in violation of an injunction order. This Court therefore asked Sri Mohd.Mumtaz Pasha, learned counsel, to produce the injunction order which is relied upon in this regard. He would however state that in the suit filed by the petitioner before the learned Special Sessions Judge for Trial of SC & ST (POA) Act-cum-Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, being O.S.No.925 of 2013, an injunction application was filed in I.A.No.2235 of 2014 and a docket order was passed therein on 16.07.2014 referring to the *status quo* order passed by this Court in C.R.P.M.P.No.4875 of 2012 in C.R.P.No.3700 of 2012.

It is therefore clear that no independent injunction was granted in favour of the petitioner by the trial Court in the suit filed by him. Insofar as the *status quo* order passed by this Court in C.R.P.M.P.No.4875 of 2012 in C.R.P.No.3700 of 2012 is concerned, it is admitted by the parties that the said C.R.P. was dismissed as withdrawn on 14.10.2015. The order passed therein is therefore no longer in operation.

Sri Mohd. Asifuddin, learned counsel, would however contend that his client is protected by an independent injunction order granted in his favour by the competent civil Court and that respondent Nos.4 and 5 herein are bound by the said injunction order.

However, this writ petition was not filed by the client of Sri Mohd. Asifuddin who seems to lay a claim through the petitioner. The present writ petition was filed on the fundamental premise that the action of the excise authorities was in violation of an injunction order, but as stated supra, there is no injunction order operating which prevented the excise authorities from taking appropriate action in the matter in accordance with the rules.

The writ petition is therefore utterly misconceived and is

accordingly dismissed.

Interim order dated 01.10.2015 shall stand vacated.

All pending miscellaneous petitions shall also stand dismissed.

No order as to costs.

SANJAY KUMAR, J

Date:02.11.2015

Note: Furnish C.C. by tomorrow.

(B/o)

GJ