

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.19546 OF 2012

ORDER

This writ petition is filed questioning the notice dated 25.06.2012 issued by the respondent-Corporation under Section 456 of Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') asking the petitioners to vacate the shops occupied by them within seven (7) days as the said shops are in dilapidated condition causing danger to human lives.

The case of the petitioners is that they are the tenants of PVK Naidu Municipal Market Complex belonging to respondent-Corporation. While so, earlier when similar notice is issued, the petitioners filed W.P.No.23013/2011 where in this Court permitted the petitioners to file objections if any and directed the respondents to take appropriate action after considering the objections of the petitioners. In pursuant to the directions of this Court, the petitioners applied for the report and the respondent has submitted the report dated 01.08.2011 given by Principal, Siddartha Engineering College. On verification of the said report, it is found that tests were conducted to the 1st floor but not to the ground floor of the building. Immediately, the petitioners again filed their objections on 25.11.2011. But the respondent without considering the same, passed the present impugned notice dated 25.06.2012 without referring to the order dated 12.08.2011 passed by this Court in W.P.No.23013/2011. Hence, the present writ petition is filed.

Counter affidavit is filed by the respondent stating that as per the directions of this Court, the experts reports were supplied to the petitioners and only after considering the objections of the petitioners, the impugned notice was issued. It is also stated that the ground floor of the PVK Naidu Municipal Market Complex was constructed 50 years back and the 1st floor is constructed 25 years back. As per the objections of the petitioners, it is stated that the tests were conducted

at 26 points and informed the same through letter dated 29.07.2011 stating that the building is in dangerous condition and not even suitable for adapting retrofitting techniques and advised to remove the structures.

No reply affidavit is filed by the petitioners to the counter affidavit.

In the instant case, though it is stated that the lease is in favour of the petitioners, they have not indicated till what period their lease is valid and subsisting. Further, it is for the respondent-Corporation with the help of experts to find out whether the shops which the petitioners are occupying are in dilapidated condition and not suitable for human habitation. Since it is stated that as per the direction of this Court in earlier writ petitions, only after considering the objections of the petitioners and after taking into consideration of the experts reports, the impugned order is passed, this Court cannot go into the same once again by exercising power under Article 226 of Constitution of India. More so, the matters are required to be dealt by experts and their opinion cannot be substituted by this Court.

In view of the above, I do not see any merit in the writ petition. Accordingly, the writ petition is dismissed. There shall be no order as to costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 17.08.2015
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