

**In the High Court of Judicature at Hyderabad
for the State of Telangana and the State of Andhra
Pradesh**

Writ Petition Nos.34530 & 37018 of 2015

WP.No.34530/15

Between:

Keerti Rajesham and 9 others

... Petitioners

and

–
The State of Telangana
rep. by its Prl.Secretary
Municipal Administration Dept.,
Hyderabad and another

...Respondents

WP.No.37018/15

Between:

MD.Raheem

... Petitioner

and

–
The State of Telangana
rep. by its Prl.Secretary
Municipal Administration Dept.,
Hyderabad and another

...Respondents

Date of Judgment Pronounced: 10-12-2015

Submitted for Approval:

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

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 Ladyship/Lordship wish to

Yes/No

see the fair copy of the Judgment ?

* **The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

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! Counsel for the petitioner(s): Mr.P.Lakshma Reddy

**^ Counsel for respondent No.1: AGP for Municipal
Administration (TS)**

^ Counsel for respondent No.2: Mr.N.Praveen Kumar

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>HEAD NOTE:

? Cases cited:

NIL

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

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In both the WPs

Counsel for the petitioner(s): Mr.P.Lakshma Reddy

**Counsel for respondent No.1: AGP for Municipal
Administration (TS)**

Counsel for respondent No.2: Mr.N.Praveen Kumar

The Court made the following:

Common Order :

Both these Writ Petitions are filed for a Mandamus to declare the action of respondent No.2- Municipality in seeking to dispossess the petitioners by demolishing the shops/temporary structures raised by them in Survey No.87 PP situated near water tank, Mancheri, Adilabad District, without following the due process of law, as illegal and arbitrary.

From the pleadings of both the parties, it is evident that the petitioners have occupied a road

margin in the aforesaid survey number, raised structures thereon and have been carrying on their respective businesses. There is, however, a dispute as to the nature of these structures. While it is the case of the petitioners that these are temporary structures, respondent No.2 has pleaded that they are permanent structures.

Be that as it may, in the counter-affidavit of respondent No.2, it is stated that 698 street vendors were identified and given identity cards by the Town Vending Committee (for short 'the Committee'). However, having admitted in Paragraph 4 of the counter-affidavit that the petitioners have been using the road portion in Survey No.87 PP for carrying on their respective vending businesses, no reasons have been given as to why the Committee has not identified the petitioners as street vendors.

Under Section 3 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (for short 'the Act'), the Town Vending Committee is under obligation to conduct

a survey of all the existing street vendors, within the area under its jurisdiction, and shall ensure that the existing street vendors, identified in the survey, are accommodated in the vending zones subject to the norm of limiting the number of street vendors to two and half percent of the population of the ward or zone or town or the city, as the case may be, in accordance with the plan for street vending and the holding capacity of the vending zones. Under Sub-Section (3) thereof, no street vendor shall be evicted or, as the case may be, relocated till the survey specified under Sub-Section (1) has been completed and the Certificate of Vending is issued to all the street vendors.

Under Section 18 of the Act, the local authority may, on the recommendations of the Town Vending Committee, declare a zone or a part of it as no vending zone for any purpose and relocate the street vendors vending in that area, in such manner as may be specified in the Scheme.

Under Section 13 of the Act, every street

vendor, who possesses a Certificate of Vending, shall, in case of his relocation under Section 18 of the Act, be entitled for new site or area, as the case may be, for carrying out his vending activities as may be determined by the local authority in consultation with the Town Vending Committee.

In the instant case, respondent No.2 has alleged that the petitioners are doing businesses at non-vending zone and that they are not street vendors. While the counter-affidavit is silent as to whether vending zones are identified, the learned Standing Counsel for respondent No.2-Municipality has candidly admitted that, so far, no such zones have been identified. If that be so, the plea of respondent No.2 in the counter-affidavit that the petitioners are doing businesses at non-vending zone is without any basis, for, unless the vending zones are identified, no person can be accused of doing business in non-vending zone. As respondent No.2 has, admittedly, not identified the vending zones, as required under the provisions of the Act, it has no

right to evict any of the street vendors till the vending zones as well as the street vendors are identified. As the petitioners have, admittedly, occupied the road margin and been carrying on their respective vending businesses, I do not find any reason, whatsoever, for the Committee to not recognize them as street vendors. In the face of the admission made by respondent No.2 in the counter-affidavit that the petitioners are carrying on vending businesses *al beit* in the purported non-vending zones, respondent No.2 is directed to issue identity cards to them as street vendors within one month from the date of receipt of this order. Respondent No.2 is also directed to identify the vending zones as per the provisions of the Act and relocate all the street vendors including the petitioners in those vending zones subject to the limit prescribed under Section 3 of the Act before evicting them from their respective places of businesses within three months from the date of receipt of this order.

Both the Writ Petitions are, accordingly, allowed to the extent indicated above.

As a sequel, Miscellaneous Petitions,
pending if any, stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 10th December, 2015

Note:
LR copies.
(B/o)
LUR