

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.7757 of 2015

Date: 23-03-2015

Between:

Thota Veera Venkata Satyanarayana

.. Petitioner

AND

The Vijayawada Municipal Corporation,

Represented by its Commissioner, Bandar Road,

Vijayawada and another

.. Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.7757 of 2015

ORDER:

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This writ petition is filed for a mandamus declaring the action of the 1st respondent in issuing notice in RC.G-1-114565/2014, dated 20-03-2015 and trying to demolish the building bearing D.No.38-1-5, Punnama Thota, Vijayawada as illegal, arbitrary and violative of principles of natural justice and for a consequential direction to the 1st respondent not to demolish the subject building.

2. The grievance of the petitioner is that he is tenant of the 2nd respondent in

respect of shop bearing No.38-1-5, Punnammathota, Vijayawada and eking out his livelihood by running a Bakery and Cool Drink in the said premises. When the 2nd respondent, who is owner, started harassing and intended to evict the petitioner from the premises, he filed O.S.No.10 of 2014 before the I Additional Junior Civil Judge's Court, Vijayawada along with I.A.No.4 of 2014 wherein an interim injunction was granted in his favour. While so, the 2nd respondent filed a petition before the 1st respondent-Municipal Corporation stating that the premises is in a dilapidated condition and requested for demolition of the schedule premises, for which the 1st respondent issued a notice to the petitioner on 10-12-2013 for removal or strengthening the building. Thereafter, the petitioner filed W.P.No.6993 of 2014 wherein this court ordered for report about the structural soundness of the building vide orders dated 10-03-2014. Thereafter, a report was filed before the Court stating that the building is not in good condition and it is not in sound state and the said writ petition was disposed of on 26-03-2014 directing the notice issued to be treated as notice under Section 459 of the Greater Hyderabad Municipal Corporation Act. It is also stated that the petitioner filed objections on 29-03-2014 for the said notice to the 1st respondent, but the 1st respondent, without considering the objections filed by the petitioner, straight away directed the petitioner to vacate the premises and to demolish the dilapidated structure, failing which the structure will be demolished by the 1st respondent Corporation at the expenses of the petitioner and the 2nd respondent. Aggrieved by the same, the present writ petition filed.

3. Heard Smt. K. Pallavi, learned counsel for the petitioner, who reiterated the contents of the writ affidavit and Sri T. Balaswamy, learned standing counsel for the 1st respondent Corporation submits that in view of the orders passed by the Principal Senior Civil Judge, Vijayawada in I.A.No.964 of 2014 in C.M.A.No.8 of 2014 directing the 1st respondent Corporation to demolish the building immediately by following due procedure by taking all safety measures, the present impugned notice has been issued under Section 456 of the Greater Hyderabad Municipal Corporation Act, 1955

4. In the present case, the petitioner filed his objections on 29-03-2014 before

the 1st respondent pursuant to the orders of this court in W.P.No.6993 of 2014 and the 1st respondent, considering the objections of the petitioner and structural stability certificate dated 19-03-2014 and keeping in view the orders passed by the Principal Senior Civil Judge, Vijayawada in I.A.No.964 of 2014 in C.M.A.No.8 of 2014, issued the present impugned notice to the petitioner directing to vacate the premises and to demolish the dilapidated structure within 24 hours as the structure was identified as a dilapidated structure. There is no illegality or irregularity in issuing the impugned notice as the same is issued pursuant to the orders of the Principal Senior Civil Judge's Court, Vijayawada. If the petitioner had any grievance, he should have challenged the orders passed by the Principal Senior Civil Judge, Vijayawada in I.A.No.964 of 2014 in C.M.A.No.8 of 2014 before appropriate authority, but not the present writ petition. Since the petitioner has alternative remedy of challenging the validity of the orders passed in I.A.No.964 of 2014 in C.M.A.No.8 of 2014, invoking of jurisdiction of this Court under Article 226 of the Constitution of India is not justified and hence, the writ petition is liable to be dismissed on the ground of availability of alternative remedy.

Accordingly, the writ petition is dismissed. However, it is open for the petitioner to challenge the order passed by the Principal Senior Civil Judge, Vijayawada in I.A.No.964 of 2014 in C.M.A.No.8 of 2014, if he is so advised. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

Date: 23-03-2015

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