

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.39756 OF 2012

DATED:2-7-2015

Between:

Darsi Veera Ankamma
and another

... Petitioners

And

The Vice-Chairman & Managing Director
A.P. Scheduled Castes Cooperative
Finance Corporation Ltd.,
5th Floor, DSS Bhavan, Masab Tank
Hyderabad
and others

... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Sreekanth Reddy Ambati

COUNSEL FOR THE RESPONDENTS: Mr. B. Prakasam, Standing
Counsel

for A.P. Scheduled Castes
Cooperative Finance Corporation Ltd.

THE COURT MADE THE FOLLOWING:

ORDER:

This writ petition is filed for a mandamus for declaring the action of respondent No.2 in issuing notice in Rc. No.294/2011/S.C/D.T., dt.25.9.2012, cancelling the allotment of the petitioner's shop No.14, in Taluk Office compound, Mangalagiri, Guntur District, as illegal and arbitrary.

Late D. Manneyya, husband of petitioner No.1 and father of petitioner No.2, was allotted shop No.14 (for short, 'the subject shop') by respondent No.2 in the year 1984. The allottee was doing book-binding business in the said shop. The original allottee died on 5.11.2011. The petitioners pleaded that petitioner No.2 is continuing the business in the said shop after death of his father. While so, respondent No.2 has issued the impugned proceedings cancelling the allotment. Feeling aggrieved by the same, the petitioners filed this writ petition.

On behalf of the respondents, respondent No.3 has filed a counter affidavit wherein she has inter alia stated that from 1985-86 in the Action Plan, shopping complexes have been constructed in various Municipalities and Mandal Head Quarters in the District, including the shopping complex at Mangalagiri Municipality. That out of 16 shops constructed, shop No.14 was allotted to Dasari Manneyya. That during the visit of the District Collector, Guntur on 20.9.2010 he has found that the rents are not paid by the allottees regularly and majority of the beneficiaries have resorted to sub-leasing of the shops to others at higher rents by collecting heavy advances and also shifted over to other trades without prior permission. That to weed out the benamies, the Collector has constituted a committee for

all the shopping complexes in the District, Municipality-wise, and Mandal-wise, and the Committee consists of Tahsildar of the concerned Mandal as team leader, Station House Officer of the concerned Mandal, as Project Officer, UPA cell Co-ordinator, Municipal Corporation, Guntur, as member, and the Revenue Divisional Officers of Guntur, Tenali and Narasaraopet are appointed as Coordinators of the above committees. That, on the report of the Tahsildar, Mangalagiri, and also based on available record, respondent No.2 issued order dt.8.9.2012 in the first phase proposing cancellation of the original allottees who have died. It is further averred that the allotment of shops is not hereditary and that therefore the petitioners, who are the family members of the original allottee, are not entitled to continuation of the allotment. It is further stated in the counter affidavit that in pursuance of the interim order, dt.27.12.2012, the shop was reopened and the same was handed over to the petitioners on 9.1.2013.

Learned counsel for the petitioner submitted that as the Andhra Pradesh Scheduled Castes Cooperative Finance Corporation Limited (for short, 'the Corporation') is meant for rendering help to the persons belonging to the scheduled castes, the petitioners, who are the legal heirs of the original allottee of the subject shop, are also entitled to the benefit of allotment of the shop.

During the previous hearing, this Court has adjourned the case to enable the learned Standing Counsel for the Corporation to place before the Court relevant circulars governing allotment of the shops.

Today, Mr. B. Prakasam, learned Standing Counsel for the Corporation, has placed before this Court two documents; one is letter dt.27.2.2013 addressed to the Executive Director, District Scheduled Service Cooperative Society Limited, Guntur District, by the Vice-Chairman and Managing Director of the Corporation, and the other is Circular dt.9.3.1993, issued by the Corporation.

A perusal of the letter dt.27.2.2013 of respondent No.1 shows that respondent no.3 has sought clarifications on certain aspects

including on the issue as to whether the legal heirs of the deceased allottees are entitled to be continued in the allotted shops.

Respondent No.1 has clarified as under:

“The decision may be taken by the selection committee as deemed fit with the final approval of the District Collector/Chairman of the District”

The circular dated 9.3.993 was issued for amending the circular dt.7.10.1992. The amendment to para III(4) of the original circular reads as under:

“The beneficiary for allotment of shops shall be selected by a committee consisting of Joint Collector, Project Director and Executive Director of the Dist. SC Service Coop. Society who will also be the convenor.”

From the above discussed material, it appears that no policy has been evolved by the Corporation on the aspect of continuing the legal heirs of the allottees with regard to the shops allotted to the deceased allottees. Unless a policy is laid down, I feel it unjust to oust the family members of the allottees, belonging to Scheduled Caste and who find it difficult for both ends to meet. Therefore, it is appropriate for respondent No.2 to place the issue before the selection committee and take a decision in this regard. Till such decision is taken and communicated to the petitioners, the respondents shall not evict the petitioners from the subject shop. The petitioners shall, however, continue to pay the rents without any default.

Subject to the above directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. Nos.50495 of 2012 and 1525 of 2013 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

2-7-2015

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