

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.42529 of 2015

Date:30.12.2015

Between:

M/s Raghava (R) Picture
Palace, Miryalguda, repled by its
Licensee-A.Vasudha Reddy

..... Petitioner

And:

The State of Telangana., repled., by its
Principal Secretary, (Home-Cinemas)
(General-A) Department,
Hyderabad and two others.

.....Respondents

Counsel for the Petitioner: Mr. K.Durga Prasad

Counsel for Respondent No.1: AGP for Home (TS)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to set aside notice, vide G/1296/TPO/2015, dated 29.10.2015, of respondent No.3, whereby he has called upon the petitioner to produce the photo copies of the documents relating to building permission, etc., for verification purpose.

Mr. K.Durga Prasad, learned counsel for the petitioner, submitted that the cinema hall was constructed

about 41 years back and that the theatres are being run from 1976 and 1995 respectively. He has further submitted that as the Andhra Pradesh Cinemas (Regulation) Act, 1955 (for short 'the 1955 Act') is a special enactment, which over rides the provisions of the Municipal Corporations Act, respondent Nos.2 and 3 have no power to review the license granted by the competent authority, who is the Joint Collector.

Under Section-192 of the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act'), the Commissioner of the Municipality has power to order removal, *inter alia*, of encroachment or obstruction over any street.

A perusal of the impugned notice shows that the same was issued on a complaint lodged by one K.Showri, D.C.C General Secretary, State S.C. Cell complaining that on the eastern side of the theatre, the petitioner has occupied public road and constructed a cinema hall.

No doubt, Section-6 of the 1955 Act has an overriding effect over other Acts in respect of the grant of permission for construction or reconstruction of a building or the grant of licence for use of any place or building for any purpose for which such licence is required under the Acts referred therein or the grant of permission to install any machinery in any place or building.

A perusal of the impugned notice shows that the main ground for respondent No.3 in issuing the same was to ascertain whether the petitioner has occupied any public road and constructed a cinema hall thereon. If on submission of the documents by the petitioner and upon holding enquiry, respondent No.3 finds that the petitioner has occupied public road, he has power to initiate proceedings under Section-192 of the Act. Therefore, for this limited purpose, the power of respondent No.2 to take action for removal of the encroachment is not over

ridden by Section-6 of the 1955 Act.

Since by the impugned notice, the petitioner was given an opportunity to place the documents to prove that it has not encroached public road, no prejudice is caused to its interests. Therefore, I do not find any reason to interfere with the same. As the petitioner has not produced the copies of the documents so far, it is given four weeks' time for such production. On examining the same, if respondent Nos.2 and 3 are, *prima facie*, satisfied that the petitioner has encroached public road, they shall hold a detailed enquiry, wherein they shall give an opportunity of personal hearing to the representative of the petitioner, take a decision and communicate the same to it.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, W.P.M.P.No.54846 of 2015 is disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*30th December, 2015
DR*