

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.698 OF 2015

ORDER:

This writ petition is filed by the petitioner seeking to declare the action of respondent Nos.2 and 3 for not regularizing the petitioner's possession and fixing the rent for the shop No.3 (Old No.2), Madina Complex, Karimnagar District, on par with the other tenants in the said complex, as illegal, arbitrary and unjust and consequently to direct the respondent Nos.2 and 3 to conduct enquiry and to regularize the possession of the petitioner.

Petitioner claims to be in occupation of shop No.3 (old No.2), Door No.4-1-25/2, Madina Complex, Karimnagar District. Admittedly, it is owned by the Mosque and is under control of A.P. State Wakf Board.

The grievance of the petitioner is that the respondent Nos.2 and 3 have not regularised his occupation though the petitioner is in possession and has been paying the rents all through since 28 years. There were also allegations made against the President of Wakf Board and another person one Mr. S.A.Aziz.

When the matter was listed for admission, W.P.M.P.No.1764 of 2015 is filed by one Syed Abdul Aziz seeking to implead himself as a party-respondent.

The case of the petitioner is that he is the occupant of shop bearing No.3 (old No.2), Door No.4-1-25/2, Madina Complex, Karimnagar District for the last 28 years and he is running an Electronic shop repairing of Televisions under the name and style of KS Digital Electronics. It is the specific case of the petitioner that the shop was obtained from Mr. S.A. Aziz and he has been paying the

rents to the said S.A. Aziz. However, in the month of June, 2014, he was issued notice by the Executive Officer/3rd respondent demanding certain amounts. To support his case, the petitioner placed on record the certificate issued by the Department of Industries registering his unit as a small scale industry, the insurance premium certificate issued by the National Insurance Company insuring the property in the premises, the demand notice issued by the Municipal Corporation with respect to the tax.

On the other hand, the learned counsel for the implead petitioner opposes the writ petition stating that the petitioner had suppressed the true fact that his client is the tenant and the petitioner is only a paid employee and was being paid monthly salary of Rs.4,000/- . The premises is in the occupation and control of the implead petitioner. He also placed on record an agreement said to have been executed between the petitioner and the implead petitioner on 10.01.2009. He further contends that a notice of demand was issued to him by the Wakf Board on 05.11.2014 and a sum of Rs.1,00,000/- has also been paid by him thereafter to the Wakf Board. The learned counsel appearing for the Wakf Board also supports as to the implead petitioner is in occupation of the property in question.

Heard Sri N. Hari Prasad, learned counsel for the petitioner, Learned Assistant Government Pleader for Minorities Welfare Department (Wakf-I) for the 1st respondent, Sri Mirza Saifulla Baigh, learned counsel for the 2nd respondent and Sri S.M. Subhani, learned counsel for the proposed party. None appeared for the 3rd respondent

Having considered the rival submissions, the question with regard to in whose occupation the shop is not clear and at any rate, there is a dispute and rival claims between the parties. In those circumstances, I am afraid that the writ petition would not be maintainable.

Accordingly, the writ petition is dismissed. However, it is left open for the petitioner to approach the respondent Nos.2 and 3 putting forth his grievance and the same shall be considered by the respondent Nos.2 and 3 and pass appropriate orders in accordance with law. No order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

JUSTICE CHALLA KODANDA RAM

Date:28.01.2015

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THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

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