

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.28527 of 2015

Date: 28.09.2015

Between:

A.Jayaram, S/o A.Sriramulu, Aged about 38 years,
Shop No.3-A, Gandhi Park Municipal Shopping Complex,
Near Clock Tower, Kadiri, Ananthapuram District.

.... Petitioner

AND

The State of Andhra Pradesh, rep.by its Principal Secretary,
Municipal Administration and Urban Development Department,
Secretariat Buildings, Hyderabad and another.

.... Respondents

This Court made the following:

ORDER:

Petitioner challenges the proceedings of the Commissioner, signed on 26.08.2015, directing the petitioner to vacate the subject shop within 48 hours. As per the averments made in the affidavit filed in support of the writ petition as well as impugned proceedings, it appears that earlier lease was granted in the name of T.Tirupalu. In the revenue records for the year 2014-15, it is shown that the lease was transferred in the name of A.Jayaram. Noticing that lease was wrongly transferred in the name of T.Jayaram without following due process, municipal council appears to have resolved to cancel the lease. As a consequence to the decision of the municipal council dated 31.07.2015, petitioner was directed to vacate the subject shop.

2. A reading of the notice makes it clear that resolution was passed by the municipal council without giving an opportunity to the petitioner to explain the reasons for such transfer made earlier, more so, when the municipality itself has affected changes of lease in the name of the petitioner. Thus, the municipal authorities ought to have followed appropriate procedure before directing the petitioner to vacate the subject premises. On this ground alone, proceeding impugned in the writ petition is liable to be set aside and it is accordingly set aside.

3. Accordingly the writ petition is disposed of. Matter is remitted back to the respondent municipality directing the municipality to treat the proceedings dated 26.08.2015 as notice and petitioner shall submit his explanation within a period of two weeks from the date of receipt of copy of this order and on submission of such explanation, respondent municipality shall consider the same objectively and pass appropriate orders. Till such decision is taken by the competent authority, Municipality shall not take coercive steps against the petitioner, subject to petitioner paying the lease amount regularly. There shall be no order as to costs.

Miscellaneous petitions if any pending in the writ petition shall stand closed.

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