

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 20083 of 2014

Date :7-9-2015

Between :

Sunil Kumar S/o Dr C P Gupta,
R/o 8-2-293/82/A/PP, Jubilee hills,
Hyderabad

....Petitioner

And

The State of Telangana
Rep by its Prl Secretary, Municipal Admn.,
Secretariat, Hyderabad and others

...Respondents

The Court made the following:

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ORAL ORDER:

According to the petitioner, he was granted lease of land for a period of

56 years by the Jubilee Hills Cooperative Housing Society to establish petroleum retail out-let in Survey No. 403/1 (Old) new Survey No. 120 of Shaikpet village, Jubilee Hills, Hyderabad. Petitioner has established retail outlet and is operating the same. Alleging that respondent Greater Hyderabad Municipal Corporation (for short GHMC) is illegally interfering with the possession and enjoyment of the said property, without following due process and have demolished portion of the compound wall constructed by the petitioner, this writ petition is instituted.

2. This Court by order dated 16.7.2014 granted interim order to maintain status quo. On further consideration of the matter, this Court by order dated 20.11.2014 declined to vacate the interim order. Aggrieved thereby,

respondent-GHMC preferred an appeal in W A No. 172 of 2015. Said appeal was disposed of by order dated 3.3.2015 directing GHMC not to dispossess the petitioner without following due process of law. Petitioner was also directed not to transfer or alienate or part with possession of the property until competent authority decides.

3. Learned senior counsel Sri Sudershan Reddy, appearing for petitioner submits that the land in issue belongs to Jubilee Hills Cooperative Society and lease was granted in favour of the society to an extent of 1603 sq yards for a period of 56 years to establish petroleum retail outlet and accordingly petitioner established petroleum retail outlet. That the petitioner is in possession and enjoyment of the entire extent of land. Learned senior counsel further submits that question of GHMC interfering with the possession and enjoyment of the property belonging to Jubilee Hills Cooperative Society when lease validly vests in petitioner, is ex-facie illegal and more so, without following due process of law.

4. Learned standing counsel for GHMC Mr P Keshav Rao, made elaborate submissions to support the stand of GHMC that Jubilee Hills Cooperative Society owns the land to an extent of 1238.88 sq yards and 460.68 sq yards is open space as per the original lay-out, therefore consequently vests in GHMC. He therefore contends that petitioner cannot

be in occupation and enjoyment of the said property and GHMC has rightly taken steps to evict the petitioner from the said property.

5. It appears petitioner is in possession and enjoyment of the property and by the time writ petition was instituted, no proper procedure was followed to evict the petitioner from the subject premises. At this stage, learned standing counsel for GHMC submits that during the pendency of writ petition, notice under Section 405 of GHMC Act was issued and thereafter matter was not pursued due to pendency of writ petition.

6. Even assuming that petitioner is in enjoyment of property which vests in GHMC, when petitioner stated to be in possession, GHMC has to follow due process of law before seeking to evict the petitioner, however, no such procedure was followed by the time writ petition is instituted. Thus, claim of the petitioner that respondents are trying to dispossess him without following procedure of law, is justified. However, since GHMC is claiming that 460.68 sq yards belonging to GHMC is in occupation by of petitioner, it is open for GHMC to follow due process of law to evict the petitioner. Further, as directed by the Division Bench of this Court in W A No.172 of 2015, petitioner shall not transfer or alienate or part with the possession of the property until competent authority decides the issue. Further, until appropriate course of action is taken by observing procedural formalities, no coercive steps shall be taken against the petitioner.

Accordingly, the writ petition is disposed of. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:7.9.2015
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HONOURABLE SRI JUSTICE P. NAVEEN RAO

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