

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.25216 of 2001

ORDER

Originally, father of the petitioner, is a tenant of premises bearing No.11-5-290, Bazarghat, Red Hills, Hyderabad. Respondent Nos.3 and 4 are the subsequent purchasers from the original owner and the tenancy was continued. After death of his father, the petitioner continued the same and has been regularly paying the rents. However, when respondents 3 and 4 refused to receive the rents from March,2001, the petitioner filed O.S.No.1589 of 2001 on the file of the XIX Junior Civil Judge, City Civil Court, Hyderabad, for permanent injunction restraining respondents 3 and 4 from interfering with his peaceful possession and enjoyment of the property in question. In the said proceedings, respondents 3 and 4 filed a Memo on 17.4.2001 undertaking that they will not demolish two mulgies bearing Nos.11-5-289 and 11-5-290. In spite of the said undertaking, respondents 3 and 4 interfered with the property and caused damage. The petitioner also filed rent control case before the Principal Rent Controller, City Civil Court, Hyderabad. While so, respondents 3 and 4 gave consent for handing over of the premises in which the petitioner is in occupation, to the Municipality, for the alleged purpose of road widening. When the 2nd respondent issued notice on 7.12.2001 directing the petitioner to vacate the premises, the present writ petition was filed.

This court by order dated 10.12.2001 granted interim stay. Seeking vacation of the said order, WVMP No.3677 of 2001 was filed at the instance of respondents 3 and 4.

The issue as to “Whether in case of acquisition of land by municipal authorities, for road widening, on consent of the landlord of a shop any notice is necessary to be given to the tenant in the shop?”, was referred by a Full Bench to a Larger Bench and the Larger Bench in a decision rendered in W.A.No.453 of 2005, WP Nos.5135 of 2001 and 10106 of 2002 answered that notice to the tenant of the shop is necessary in case of acquisition of land by Municipal Authorities for road widening even if the landlord/owner of the premises has given his consent.

In view of authoritative pronouncement of the Larger Bench of this Court that the tenant has a right of notice, this Writ Petition is allowed by setting aside the impugned proceedings dated 7.12.2001 only on the ground of non-issuance of notice to the petitioner. However, it is open to the second respondent to take appropriate proceedings in accordance with law, if the second respondent wants to acquire any portion of the land in occupation of the petitioner. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

1st November, 2016
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