

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 2278 OF 2012

ORDER:

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Heard.

The present Writ Petition came to be filed seeking to declare the action of respondents in seizing the movables of petitioner's hotel which was being run in the name and style of Sajan Tiffin Centre and Cool Drinks at Ravindrapur Village Basar Gram Panchayat, Moudhale Mandal, Adilabad District and dismantling the tin shed, as illegal and arbitrary.

The averments in the affidavit filed in support of the Writ Petition would show that the petitioner who was running hotel in the name and style of Sajan Tiffin Centre and Cool Drinks at Ravindrapur Village in Basar Village obtained license and was paying license fee fixed by the Gram Panchayat since 2006-2007 till 2011-2012. It is stated that the hotel of the petitioner is situated facing the 80 feet main road joining Nizambad Bhainsa highway and it was in no way obstructing the flow of traffic. It is stated that the petitioner is in occupation of old toll collecting tiled room and was running his hotel in a temporary tin shed erected in front of the said tiled room by residing on the back side. While things stood thus,

on 20.01.2012, the Revenue Divisional Officer visited the premises and threatened the petitioner to vacate the same by the next day evening. On 21.01.2012 at about 04.00 p.m., the first respondent - the Tahsildar along with his staff visited the said premises, seized all the articles, uprooted the tin shed and carried all the articles to the office of gram panchayat. The action of the

respondents in removing the shed and taking away all the articles without any notice is the subject matter of challenge in the present Writ Petition.

On 04.02.2013, the Tahsildar, filed a counter affidavit stating that the petitioner occupied the Government Civil Supplies Check post situated in Survey No.51/aa of Basar Village and started running hotel in the said premises. Having noticed the said encroachment, the first respondent issued a notice under Section 7 of A.P.Land Encroachment Act (for short, 'the Act'). Since the petitioner refused to receive the notice, the same was pasted to the shed in the presence of witnesses available on spot. Since no reply was received from the petitioner, reminder notices dated 02.08.2011, 21.11.2011 and 15.12.2011 were also issued. Since the petitioner failed to vacate the premises, final notice under Section 6 of the Act was issued on 19.01.2012. In response to the said notice, the petitioner submitted a letter expressing his willingness to vacate the premises within 24 hours. As the petitioner failed to vacate the premises, the revenue officials evicted the petitioner from the premises on 20.01.2012 by duly conducting panchanama.

It would be relevant to extract para No.4 of the counter, which reads as under:

“It is submitted that the revenue officials seized the 5 gas stoves, one oil boulder, 2 grinders, 3 big size refrigerators, one counter table, 2 buckets, 7 asbestos sheets, 5 iron poles along with cool drinks of different companies. Since the seizure was made on 20.01.2012, the seized articles are getting damaged. If this Hon'ble Court permits this petitioner to sell the seized articles, this petitioner will sell the same and keep the amount derived from the said sale into Government Account and will take appropriate action as per the directions of this Hon'ble Court”.

A perusal of the above extract clearly indicates that the respondents have seized the articles mentioned above on 20.01.2012. The averment in the above paragraph also indicates that the articles are getting damaged and hence they sought for sale of such articles.

Learned counsel for the petitioner submits that since these articles are useful to them, he is willing to take back as the sale of the same may not fetch amount which they actually worth.

Having regard to the circumstances stated above, the petitioner shall approach the respondents by making appropriate application, in which event, the respondents shall consider releasing the seized items mentioned in the paragraph No.4 of the counter, in accordance with law.

With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

Consequently, the Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

27.01.2016
vhb