

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 34235 OF 2016

ORDER:

This writ petition is filed questioning the notices issued by the second respondent dated 08.03.2016 and 30.03.2016 to remove the cattle shed and dairy farm from the residential area at Basavannagadda locality, Wanaparthy Town, alleging that the same is causing pollution and ill-health problems to the neighbouring residents.

2. It is the case of the petitioner that several others are also running similar dairy farms and that no action is taken against them and it is only on account of the rivalry between the petitioner and the third respondent the impugned order came to be passed by the second respondent directing the petitioner to remove the dairy farm within five days. Pursuant to the issuing of the impugned notices, the second respondent got issued a notice through its counsel and the same was replied to by the petitioner on 12.09.2016 and thereafter no order has been passed. Further on 23.09.2016 the second respondent authorities visited the dairy farm and tried to remove the shed. Hence, the writ petition.

3. Heard.

4. Section 260 and 261 of the A.P.Municipalities Act, 1965, (for brevity, "the Act") reads as follows:

“ Sec.260. Licences for places in which animals are kept: -

(1) The owner or occupier of any stable, veteran ar y infirmary, stand, shed, yard or other place in which animals are kept or taken in for purposes of profit shall apply to the municipal health officer for a licence not less than thirty days and nor more than ninety days before the opening of such place, or the commencement

of year for which the licence is sought to be renewed, as the case may be.

(2) The municipal health officer may, by an order and under such restrictions and regulations as he thinks fit, grant or refuse to grant such licence.

(3) No person shall, without or otherwise than in conformity with a licence, use any place for such a purpose.

Provided that this Section shall not apply to any such place licensed as a place of public entertainment or resort under the Andhra Pradesh (Andhra Area) Places of pUblc Resort Act, 1888 (Act II of 1888), or any other law similar thereto for the time being in force.

261:- General powers of control over stables, cattle sheds and cow houses: -

(1) All stables, cattle-sheds and cow-houses whether they are built separately and whether they form part of the residential buildings, shall be under the control of the municipal health officer as regards their site, construction, materials and dimensions.

(2) The municipal health officer may by notice require that any stable, cattle-shed or cow-house be altered, paved, drained, repaired, disinfected or kept in such a state as to admit of its being sufficiently cleaned or be supplied with water or be connected with a sewer.

(3) Every such notice shall be addressed to the owner of the building or land to which the stable, cattle-shed or cow-house belongs.

(4) The expense of executing any work in pursuance of any such notice shall be borne by the said owner."

5. It is not in dispute that the petitioner had not obtained any licence and had not complied with any of the requirements as mandated under Sections 260 and 261 of the Act. In those circumstances, the notices issued by the second respondent cannot be faulted with in any manner. Even assuming that the action has been initiated by the second respondent at the instance of the third respondent, the same by itself cannot validate an invalid act, which is otherwise impermissible under law without obtaining the licence. In those circumstances, I do not see any merit in the writ petition and the same is devoid of merit.

6. Accordingly, the Writ Petition is dismissed. However, this order shall not preclude the petitioner to approach the respondent authorities in terms of Sections 260 and 261 of the Act and obtain licence for running the dairy farm in accordance with law.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

JUSTICE CHALLA KODANDA RAM

October 18, 2016
LMV

