

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.21857 OF 2009

ORDER:

It is the case of the petitioner that there was a land, belonged to the 1st respondent, near Old Bus-stand, Miryalaguda, which was made into small plots for the purpose of establishment of petty businesses by small vendors. Small plots were allotted on payment of lease amount basis. The petitioner states that he was put in possession of Plot No.1 in the year 1990, constructed a small room in the said place and started running small Tea hotel in the name and style of 'Picnic Café' since 1990. He was running hotel, after obtaining necessary license from the authorities, and when the 2nd respondent is trying to interfere with the said possession in the year 2001, he filed O.S. No. 84 of 2001 against him seeking permanent injunction. The 2nd respondent, in turn, filed O.S.No.163 of 2004 seeking eviction of the petitioner. The suit in O.S.No.84 of 2001 was decreed holding that the plaintiff shall not be dispossessed, except in accordance with law; whereas the suit in O.S.No.163 of 2004 was decreed in favour of the 2nd respondent. Challenging the same, A.S.No.57 of 2008 on the file of I-Addl. District Judge, Nalgonda and Second Appeal No. 1034 of 2009 before this Court filed.

It is now stated by the learned counsel for the 2nd respondent that the 2nd respondent is put in possession of the said land, claimed to have been held by the petitioner.

The only grievance in the present writ petition is that the inaction of the 1st respondent in not considering request of the

petitioner for running Shop No.1 on the application made him on 2.8.2007 and 23.7.2009.

The 1st respondent filed counter stating that 2nd respondent was not an allottee of Shop No.1, but he had been in possession of the land by paying the rent. The 2nd respondent has no right to evict anyone and it is for the 1st respondent alone to take action.

Be that as it may, as on today, it appears that the 2nd respondent is in a possession of the land, claimed to have been held by the petitioner, and the 2nd respondent has been paying rent to the 1st respondent. The averments in the present writ petition show that the land belongs to the 1st respondent. It is for the 1st respondent to take action. If the 1st respondent wants to allot the said land for any purpose to any person, it shall be in accordance with law.

In the circumstances, the possession of the 2nd respondent in the land wanted by the petitioner would not disentitle the consideration of the case of the petitioner by the 1st respondent. However, it is needless to observe that the said consideration shall take place only after issuing appropriate notice to the 2nd respondent, who is in possession of piece of land owned by the 1st respondent, as on today.

Writ Petition is accordingly disposed of. No order as to costs.

Miscellaneous applications, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 20.12.2016.

GBS