

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 22650 of 2012

Order:

It is the case of the first petitioner that she is the owner of the premises situated in Survey No.151(p), near Mentipeta colony, Cheepuripalli colony, Rajam, Srikakulam district. The first petitioner's vendor filed O.S.No.145 of 1999 on the file of the Junior Civil Judge, Rajam seeking declaration of title and permanent injunction in respect of the portion of the property. The said suit was dismissed on 26.09.2005. Challenging the same, A.S. No.16 of 2006 was filed before the Senior Civil Judge, Rajam. The appeal was allowed and the matter was remanded to the trial Court. The first petitioner, after purchase of the said property by a registered sale deed, erected zinc sheds on the existing pillars and gave the same on lease to the second petitioner for establishment of a wine shop. The second petitioner was permitted to run the wine shop by granting license by the excise authorities. While so, when the respondent issued a notice on 12.07.2012 to remove the unauthorized structure on the disputed site in Survey No.151(p), near Mentipeta colony, Cheepuripalli colony, Rajam, Srikakulam district, the present Writ Petition was filed.

This Court granted an order of *status quo* by an order dated 01.08.2012 and the same is continuing till today.

A counter affidavit is filed by the respondent stating that the first petitioner constructed the brick walls with AC sheet roof for shop on already laid RCC pillars in Survey No.151(p), Rajam village without taking

prior permission from the municipal authorities. When the civil proceedings were pending, the first petitioner purchased the disputed site and completed the construction of the shop without prior permission. She let out the shop to the second respondent for running a wine shop. Basing on the legal opinion, notices were issued to the first petitioner on 12.07.2012 and also a letter was addressed to the Inspector of Police, Excise Department, Rajam for canceling the license of the wine shop. A letter was also issued to the Assistant Divisional Engineer, APEPDCL, Rajam for disconnection of power supply. Now, the second petitioner changed his wine shop from the disputed site to the first petitioner's site i.e., rear side of the disputed site.

It is clear from the above facts that the first petitioner purchased a disputed site and constructed a shed without obtaining prior permission from the municipality and on that a notice was issued on 12.07.2012. A reading of the notice makes it clear that 15 days time was granted to the first petitioner to remove the unauthorized structures. The second petitioner to whom the shop was let out moved the wine shop to the undisputed site of the first petitioner.

In the circumstances, without expressing any opinion on the merits of the case, liberty is given to the first petitioner to submit her explanation to the respondent with regard to unauthorized constructions within a period of fifteen (15) days from the date of receipt of a copy of this order and the respondent shall consider the same and pass appropriate orders thereon within a period of thirty (30) days after receipt of explanation from the first petitioner.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs. The Miscellaneous Petitions pending, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 20.10.2016
Nsr

