

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION Nos. 24700, 23568, 24191 & 23052 OF 2009

COMMON ORDER:

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Heard Sri Wasim Ahmed Khan, learned counsel for the petitioners and Sri S.S.Verma, learned Senior Panel Counsel, Central Government and perused the records.

Challenging the show cause notice dated 18.09.2009, wherein the petitioners were asked to explain the alleged encroachment made in respect of the land in Survey No.2, Block 'A' Ward No.105 of Bholakpur, Revenue Village at No.2, SP Road, Secunderabad, the present Writ Petition is filed.

The averments in the affidavit filed in support of the Writ Petitions would show that the petitioners were running petty business like pan shop, art shops, radium works, footwear shops etc., for the last thirty years in the spaces allotted to them by the MCH, SD Road, Secunderabad. The said kiosks were originally allotted by MCH under various rental agreements. It is stated that pursuant to the notification dated 18.11.1975, the petitioner along with others approached MCH in the year 1980 and obtained the above spaces under a valid rental agreement. Ever since such allotment, the petitioners claim to have been in possession of the property and also obtained electricity connection, trade licenses, labour licenses, etc. While things stood thus, the respondent is said to have issued show cause notice Nos.3995/1/AF/CAW/S/Q3L,3995/1/AF/CAW/J/Q3L,3995/1/AF/CAW/MAAS/Q3L,3995/1/AF/CAW/AAS/Q3L,3995/1/AF/ treating the petitioners as encroachers on the land claimed to be a defence land. Challenging the same, the present Writ Petition is filed.

Learned counsel for the petitioners mainly submit that the said show cause notices issued by the respondent is without jurisdiction since the property in dispute belongs to GHMC. He placed on record letter No.35/RS/87-88, dated 05.10.1988 and rental receipts in support of his submission.

Learned counsel for the respondent would submit that the issue involves disputed questions of fact mainly with regard to ownership of the property and the same needs to be enquired by an appropriate authority. It is further stated that since only show cause notice is issued, the petitioners can as well give a reply explaining their stand.

A perusal of the impugned orders would show that show cause notices were issued to the petitioners by the respondent claiming it to be a defence land. The petitioners were asked to submit their explanation on or before 01.02.2009. By its order dated 16.11.2009, 03.11.2009, 10.11.2009 and 28.10.2009, this Court while issuing *rule nisi*, granted interim stay as prayed for. It is submitted that in view of the interim orders passed, there was no further progress pursuant to the show cause notices. Since the order under challenge is only a show cause notice issued to the petitioners and since the issue involves disputed questions of fact, mainly with regard to ownership of the property, it would be appropriate if the petitioners submit their explanation to the show cause notices by explaining their stand along with all documents and contest the matter.

At this stage, learned counsel for the petitioners submits that a reasonable time may be given to him to submit their explanation and that the interim order granted by this Court may be directed to the kept in force till the completion of enquiry.

Having regard to the circumstances stated above, the Writ Petitions are disposed of directing the petitioners to give their explanation to the show cause notices within a period of three (03) weeks from today, in which event, the respondent – authority shall consider the same and pass appropriate orders after hearing the petitioners, within a period of ten (10) weeks thereafter. Till such time, interim order granted by this Court on 16.11.2009 shall be in force. No costs.

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

JUSTICE C. PRAVEEN KUMAR

04.01.2016
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