

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No.24679 of 2016

ORDER:

Vide the present petition, the petitioners assailed notice dated 18.07.2016, whereby they were directed to handover possession of the effected portion of the subject premises bearing No.10-2-289/4, Udyog Bhavan Trust A.C. Guards, Opp. Mahaveer Hospital, Masab Tank, Hyderabad.

The petitioners are tenants of shop Nos.1 to 5/1 and 14 to 17 of premises bearing No.10-2-289/4, Udyog Bhavan Trust A.C. Guards, Opp. Mahaveer Hospital, Masab Tank, Hyderabad. The petitioners are earning their livelihood from the aforesaid shops. The father of petitioner No.4 initially obtained shop No.14 in the year 1980 and, after his death, petitioner No.4 is continuing the said shop. Respondent No.2 sought to acquire part of the said shops for the proposed road widening between Ayodhya Junction to SD Eye Hospital, Mehdiapatnam, Hyderabad. Respondent No.4 i.e. owner of the property, who earlier filed eviction petition against some of the petitioners, had failed to evict them. Thereafter, the authorities are trying to demolish the shops under the guise of road widening. The petitioners are sought to be evicted without following due process of law. As such, some of them had earlier filed W.P.No.34234 of 2015. The same was disposed of vide order dated 11.02.2016 specifically stating that "tenants are entitled to notice before the property is acquired by following procedure under Section 146 and 147 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act')". Accordingly, this Court directed respondent No.2 (Commissioner, Greater Hyderabad Municipal Corporation (GHMC)) to follow the

procedure as explained by this Court in the judgment of **Ushodaya Publications, Hyderabad v. Commissioner, Municipal Corporation of Hyderabad**^[1].

Learned counsel appearing on behalf of the petitioners submits that respondent No.2 had issued notice dated 07.04.2016 directly to the petitioners directing them to handover possession of the effected portion of the said property to GHMC and vacate the possession within seven days, and the petitioners made representation on 13.04.2016 seeking particulars, however, no information was provided.

Learned counsel appearing on behalf of respondent Nos.2 and 3 has drawn the attention of this Court to communication dated 03.06.2016 whereby the petitioners requested respondent Nos.2 and 3 (Special Officer-cum-Commissioner, GHMC, lower Tankbund, Hyderabad and Assistant City Planner, Town Planning Section, Circle No.7A, GHMC, Khairthabad, Hyderabad respectively)

six months time to vacate the premises. He submitted that, in earlier petitions, this Court directed respondent Nos.2 and 3 to comply with Sections 146 and 147 of the Act and, thereafter, under Section 146 of the Act, respondent Nos.2 and 3 tried to settle the issue with respondent No.4 (landlord) and the petitioners (tenants) and the petitioners appeared and consented for the same.

Though this fact has been disputed by the learned counsel for the petitioners, he submitted that the petitioners asked respondent Nos.2 and 3 to disclose as to how much portion of the shops is required for road widening, however, the petitioners got no information from respondent Nos.2 and 3.

Therefore, that is not consent from the petitioners' side. This fact has been disputed by the learned counsel for the respondents and shown the original register, which is brought to the Court today, wherein the signatures of the petitioners had been obtained and they consented for eviction of the shops.

In view of the above, vide communication dated 03.06.2016, the petitioners sought six months time for eviction of the shops. I deem it proper, in the substantial justice, that six months time may be granted to the petitioners from the time sought i.e. 03.06.2016. Two months had already passed and four months remained.

In view of facts recorded above, I find no merit in the petition.

However, in the interest of justice, petitioners are directed to vacate the shops in question within four months from today.

Accordingly, the Writ Petition is dismissed.

In so far as compensation, and rights of the landlord, regarding premises in question is concerned, the petitioners may take steps as per law before the appropriate forum.

Miscellaneous Petition pending, if any, shall also stand dismissed. However, in the circumstances, without costs.

SURESH KUMAR KAIT, J

Dt:25.07.2016

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[\[1\]](#) 2001(3) ALD 173