

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.3718 of 2016

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India by the Revision Petitioner being aggrieved by the Decree and Judgment dt.18.04.2016 in C.M.A.No.83 of 2014 on the file of Chief Judge, City Civil Court, Hyderabad, dismissing the Civil Miscellaneous Appeal by confirming the Order of the Estate Officer under Section 5 of Andhra Pradesh Public Premises (Eviction of Unauthorized Occupants) Act, 1968 ('1968 Act' for brevity) in Notice-Form-B Bearing No.2695/EO/E6/GHMC/2014, dt.--.07.2014.

2. The contentions urged before this Court by the learned counsel for Revision Petitioner are two folds. First contention is that no show cause notice contemplated under Sub Section 1 of Section 4 of 1968 of Act was served and the second contention is that there is discrepancy with regard to date of commencement and allotment of shop on lease and that no financial loss was caused to the Corporation, since, the revision petitioner has been paying rent till date.

3. The jurisdiction of this Court under Article 227 of the Constitution of India is limited and it is supervisory in nature, hence, this Court cannot set aside the order passed by the Tribunal or Subordinate Courts unless exercising power beyond its jurisdiction or crossing its boundaries. It means that the duty of this Court is to see that Subordinate courts and the trial Courts shall not cross their limits while exercising jurisdiction conferred on those Courts. Further, more than half a century ago, the

Constitution Bench of the Apex Court in ***Nagendra Nath Bora and Another v. Commissioner of Hills Division and Appeals, Assam and others***^[1] settled that power under Article 227 is limited to seeing that the Courts below function within the limit of its authority or jurisdiction. There are long line of decisions on expressing similar view i.e., ***Nibaran Chandra Bag v. Mahendra Nath Ghughu***^[2], ***Mohd. Yunus v. Mohd. Mustaqim and others***^[3], ***Laxmikant Revchand Bhojwani and another v. Pratapsing Mohansingh Pardeshi***^[4], ***Rena Drego(Mrs.) v. Lalchand Soni and others***^[5] and ***Virendra Kashinath Ravat and another v. Vinayak N. Joshi and others***^[6]. In all these judgments, the Apex Court consistently held that the limited power under Article 227 of the Constitution of India cannot be invoked except for ensuring that the subordinate courts function within its limits.

4. As seen from the Order under challenge, the Chief Judge, City Civil Court, Hyderabad, specifically answered Question No.1 with regard to issuance of Notice under Sub Section 1 of Section 4 of 1968 Act and in para No.14 of the Judgment, the Court based on the material placed before it concluded that show cause Notice under Sub Section 1 of Section 4 of 1968 Act vide Lr.No.2695/EO/E6/GHMC/2014, was served on the revision petitioner, but, no objections were filed by him and thereafter an Order was passed under Section 5 of the said Act. Therefore, this finding is based on the material placed before the Court. In the absence of any illegality in the finding recorded by the trial Court, this Court cannot interfere with the Order under challenge while exercising the jurisdiction under Article 227 of the Constitution of India.

5. Second contention of the learned counsel for revision petitioner is that there is discrepancy with regard to the date of allotment of the premises on lease and he pointed out the same in Ground No.3 of the grounds of appeal in C.M.A.No.83 of 2014 while drawing the attention of Chief Judge, City Civil Court, that as per the recitals of the Order, the lease was expired in the year 1973. Whereas, the allotment letter disclosed that premises was allotted on 23.04.1999 and that in Ground No.4, it is contended that business is being run in the name of original allottee only and therefore, the occupation of the revision petitioner is not unauthorized.

6. However, the discrepancy pointed out regarding the expiry of lease and allotment of premises will not come in the way of third party, who is not authorized to occupy the premises as allottee and is running business physically. Therefore, such occupation can safely be treated as unauthorized and the question of loss to the Corporation is irrelevant. Even admission of revision petitioner is accepted, he is carrying on business in the premises but in the name of original allottee. When Original allottee is not in physical possession, the possession of revision petitioner is deemed to be unauthorized, since, the respondent did not recognize his possession as lawful. Therefore, no equities are found in favour of person in unauthorized occupation, he is not entitled to claim any protection under law from Courts.

7. Hence, I find no grounds warranting interference with the findings recorded in the impugned Order under challenge before this Court in the Revision. Consequently, this Civil Revision Petition is liable to be dismissed.

8. In the result, this Civil Revision Petition is dismissed at the

stage of admission. But, without costs in the circumstances of the case.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 05-08-2016

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[\[1\]](#) AIR 1958 Sc 398
[\[2\]](#) AIR 1963 SC 1895
[\[3\]](#) (1983) 4 SCC 566
[\[4\]](#) (1995) 6 SCC 576
[\[5\]](#) (1998) 3 SCC 341
[\[6\]](#) (1999) 1 SCC 47