

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.9611 of 2012

ORDER:

The petitioner shop is represented by its Proprietor. He claims to have purchased an extent of 225.65 square yards situated at D.No.18-4-3/1, Suryanarayanapuram, Kakinada, from one Arjilla Munneyya on 02.05.1994 in the name of his wife. Prior to the purchase of the said property, he was a tenant of the said vendor. He was carrying on the business of scrap iron in the name and style of Baba Old Iron & Steel. He applied to the respondent for grant of licence to run the business and accordingly licence was granted to him. Thereafter, the Kakinada Municipal Corporation was constituted with effect from 07.01.2005. Even after constitution of the Corporation, the petitioner obtained required licence for the business and has been continuing. The petitioner is also regularly paying the property tax. It appears that there was a dispute with the neighbour with regard to the boundary wall and the neighbour filed O.S.No.542 of 1991 on the file of the learned I Additional District Munsif, Kakinada, for declaration and injunction against the vendor of the petitioner. During the pendency of the said suit, the property was purchased by the petitioner in the name of his wife. The suit was dismissed on 23.08.1997 and A.S.No.111 of 1998 was filed on the file of the learned VII Additional District Judge, Kakinada, and the same was also dismissed on 18.08.2003. A Second Appeal in S.A.No.506 of 2007 was filed before this Court and the said Second Appeal was also dismissed on 11.04.2007, but the neighbour has been complaining to the authorities which resulted in passing an order on 15.03.2012 by the respondent asking the petitioner to

change the business, as the business is being carried on in a residential area without obtaining the permission for conversion of the residential area into commercial area. Challenging the said order, the present Writ Petition is filed.

This Court, by order dated 04.04.2012, granted interim direction directing the respondent to permit the petitioner to operate the business by suspending the impugned order dated 15.03.2012. The said order has been in operation till today. No counter affidavit is filed nor was the said order sought to be vacated.

However, keeping in view the nature of the relief sought in the Writ Petition and the order impugned in the Writ Petition, this Writ Petition is disposed of giving liberty to the petitioner to submit an explanation to the impugned order dated 15.03.2012, within a period of two weeks from the date of receipt of a copy of this order to the respondent, and the respondent shall consider the same and pass appropriate orders in accordance with law.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

01.11.2016
vs