

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.8651 of 2007

ORDER

The petitioner states that he belongs to SC community. The first respondent-Society allotted him a shop bearing No.12 (first floor) at Dilsukhnagar Shopping Complex by proceedings dated 20.09.1990. Initially, he carried on optical repairing business and thereafter, he has been running business in the name and style of "Venkataramana Brass Band". The rent of the shop was fixed at Rs.70/- per month and the same was enhanced from time to time. At the time of filing the writ petition, the petitioner was paying Rs.800/- regularly and he came to know that the District Collector/Chairman, DSCSCS Ltd., Hyderabad, passed an order on 7.4.2007 directing the Circle Development Officer-I to evict him from the premises bearing Shop No.12 FF. Hence, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that the petitioner was allotted the subject shop, and no notice was issued before passing the order impugned.

It appears that the said order was passed based on a report submitted by the Mandal Revenue Officer to the 1st respondent on 31.3.2007.

This Court by order dated 24.4.2007 directed the respondents not to evict the petitioner till 30.4.2007, if he was not evicted already.

WVMP No.1255 of 2008 was filed seeking vacation of the said order. An order was passed on 10.2.2011 stating that the earlier order passed on 24.4.2007 was extended only till 15.6.2007 and thereafter, it was not extended and in view of the same, it was held that no further orders are necessary in the WVMP.

Today, when the case is taken up consideration, none appears for the respondents. However, in the counter-affidavit filed on behalf of the respondents, it is stated that the petitioner sub-leased Shop No.12 at Dilsukhnagar Shopping Complex, Hyderabad, to Venkata Ramana on a monthly rent of Rs.1500/-; the sub-lessee is carrying on business in the name and style of “Venkataramana Brass Band”; and he is not paying the monthly rents regularly. It is further stated that a news item was published in Eenadu Daily District Edition on 15.3.2007 stating that the shops constructed by the 1st respondent are in unauthorized possession of non-scheduled caste persons. The District Collector/Chairman of the District Society has responded to the news item and directed the concerned Tahsildar, to conduct enquiry. The enquiry revealed that the shop allotted to the petitioner was in possession of Venkata Ramana, who belongs to backward class community and he has been running the shop unauthorizedly and the originally allottee sub-let the premises to the said Venkata Ramana. Based on the report submitted by the Tahsildar, the 1st respondent *vide* order dated 7.4.2007 directed for eviction of the person, who was in possession of the shop. It is also stated that in view of the interim direction, the respondents

did not take any further action to evict the unauthorized person by cancelling the allotment order.

It is evident from the above facts that the shop was originally allotted to the petitioner, but one Venkata Ramana is in possession of the said shop and he is carrying on the business in the name and style of “Venkataramana Brass Band”. The said fact came to light when enquiry was conducted on the basis of a news item published on 15.3.2007. The shops constructed by the 1st respondent are meant for scheduled caste beneficiaries, whereas the person, who was in possession of the shop, belongs to backward community.

Since no notice was issued to the petitioner, the impugned proceedings dated 7.4.2007 issued by the 1st respondent are set aside and the matter is remanded to him giving liberty to take appropriate action in accordance with law.

Accordingly, the Writ Petition is allowed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

5th January, 2017
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