

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.18032 of 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking to declare the action of the 2nd respondent in insisting the petitioner to vacate from the structure and site property admeasuring 20 square yards in S.No.357 of Kandukur Town beside Pamuru Road, as illegal, irregular, irrational, violative of provisions of Andhra Pradesh Municipalities Act, 1965, and offends Articles 14, 21 and 300A of Constitution of India and consequently direct the respondents not to interfere in any manner with his possession over the said property.

2. Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development for the 1st respondent and Sri N. Venkateswarlu, learned Standing Counsel for the 2nd respondent and perused the material available on record.

3. The case of the petitioner is that more than 20 years ago, the petitioner occupied about 20 square yards of site being Government Assessed Waste land beside Pamuru Road in Survey No.357 of Kandukuru Town and raised a shed therein and the petitioner has been running a cool drink and pan shop to eke out his livelihood. The 2nd respondent imposed tax and the petitioner has been regularly paying the same. It is further case of the petitioner that on 30.05.2017, the 2nd respondent sent his office staff asking the petitioner to vacate from the said structure and site, alleging that the same was vested in the 2nd respondent under

vesting provisions of Andhra Pradesh Municipalities Act, 1965. The petitioner immediately approached the 2nd respondent and requested not to interfere in any manner with the said structure and site property, but the 2nd respondent reiterated the same by fixing one week time as dead line for vacating the said property, even without issuing any notice nor did pass any order to that effect. The main grievance of the petitioner is that the petitioner is in settled possession of the said property for more than 20 years and that the petitioner is eligible for assignment of the same, but the 2nd respondent, being local authority constituted and governed by the provisions of the Andhra Pradesh Municipalities Act, 1965, is under legal obligation to act in only manner prescribed under the said statutory provisions.

4. Learned counsel for the petitioner submits that the respondent authorities are making hectic efforts to dispossess the petitioner firm from the land in question even without following the due procedure of law.

5. When the matter is taken up for hearing, it is informed by the learned Standing Counsel for the 2nd respondent that the 2nd respondent received lot of complaints from the owner of the land behind the shop situated in the subject property since that shop is causing inconvenience to the owner of the land situated behind the shop. Learned Standing Counsel for the 2nd respondent further informed that if really the petitioner is to be evicted, the respondent authorities would follow the due process of law and appropriate steps would be taken in accordance with law.

6. Having regard to the same, the Writ Petition is disposed of directing the respondent authorities not to take any coercive steps against the petitioner, except following due process of law. If the respondent authorities decide to remove the shop situated in the subject property, the respondent authorities are directed to follow due process of law and are directed to take appropriate steps in accordance with law. There shall be no order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

Date: 7th June, 2017

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RAJA ELANGO,J



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