

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.29273 OF 2017

Dated:30.08.2017

Between:

P. Siva Kumar, S/o. P. Sukumar,
Age 37 years, R/o.2-39-10,
Maddilavari Veedhi, Perrajupeta,
Kakinada, East Godavari District
And others

.. Petitioners

And

State of Andhra Pradesh, rep., by its
Principal Secretary, Animal Husbandry
Department, Secretariat Buildings,
Velagapudi, Guntur District and others

.. Respondents



The Court made the following:

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ORDER:

Petitioners claim to be the lessees of the properties belonging to Pithapuram Maharajas' Society for Prevention of Cruelty to Animals, (SPCA), Kakinada. The present Writ Petition is filed alleging that the revenue authorities are demanding higher rent from the petitioners than what was agreed upon by them and the SPCA and the same is *ex facie* illegal and amounts to arbitrary exercise of power.

2. According to the lease agreement, which is in force, the rent payable is from Rs.1,000/- to Rs.2,800/- per month to respective premises, whereas the amount demanded from the petitioners, as evident from the receipt dated 05.08.2017 issued to one of the lessees, was Rs.6,500/- per month and therefore it is not as what was agreed upon. Learned counsel for the petitioners therefore submits that the revenue authorities under the guise of the SPCA are demanding higher rent and failing to pay the same, threatening to dispossess the petitioners from the subject premises occupied by them.

3. In support of the contention that higher rent is demanded than what was agreed upon, the receipt dated 05.08.2017 is placed on record. The said receipt is issued by the Village Revenue Officer on behalf of the SPCA. It appears from reading of the terms of the lease agreement that rents mentioned therein were agreed upon for the relevant lease period. It also appears, as there was some problem in the functioning of the SPCA, the District Collector by

his order dated 20.07.2017 constituted a Special Committee of five officials to safeguard the remaining cattle existing in SPCA and each of the members of the Special Committee are assigned specific task to administer the affairs of SPCA. It is further stated that to incur the expenditure, the Revenue Divisional Officer, Kakinada, is authorized to utilize the funds derived from the rents of shops existing in the premises. This would mean that the Revenue Divisional Officer is authorized to collect rent from the lease holders for the purpose of incurring expenditure to various activities mentioned therein. It is thus clear that even if higher rent is demanded that demand is deemed as made by the officials appointed by the District Collector acting on behalf of the SPCA. Thus, the grievance of the petitioners is vis-à-vis the SPCA demanding higher rent than what is agreed upon by them and the SPCA. If that is so, petitioners have to avail common law remedy against such demand by the SPCA, if it is contrary to the agreed terms of the lease. Moreover, the petitioners did not challenge the letter dated 20.07.2017 issued by the District Collector by which Committee of officers was constituted. What is alleged against the Revenue Divisional Officer, Kakinada, is not in exercise of his jurisdiction as Revenue Divisional Officer, but acting on behalf of the SPCA, in view of the orders of the District Collector dated 20.07.2017 to attend to the expenditure required for various activities as mentioned in the said order. Therefore, the Writ Petition under Article 226 of the Constitution of India is not maintainable.

4. The Writ Petition is accordingly dismissed granting liberty to the petitioners to avail the remedies as available to them in law.

It is also open to the petitioners to avail the remedy against the order of the District Collector dated 20.07.2017. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in the Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:30.08.2017

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