

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.26521 of 2005

ORDER:

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the proceedings No.B/ 86/ 2003, dated 08.11.2005, issued by the first respondent, as illegal and arbitrary.

2. The averments in the writ affidavit would show that the petitioner was allotted shop No.6, as per the tender notification and the rent was fixed to be paid @ Rs.3,111/- per month, which was subsequently reduced to Rs.1,600/- per month. It is stated that one M.Sailu Mhaiseker filed W.P.No.16319 of 2002, challenging the proceedings Rc.No.15705.E1/ 95, dated 11.07.2002, wherein the Commissioner of A.P.Vaidya Vidhana Parishad revised the rentals of the shops situated in the Area Hospital Complex and the same was suspended vide proceedings dated 11.07.2002, pending the writ petition. It is the case of the petitioner that she did not pay the entire rental amount since she was awaiting for the result of the above said writ petition. Further, it is stated that the fourth respondent also filed W.P.M.P.No.22229 of 2004 in W.P.No.16319 of 2002, seeking a direction to pay rent from July 2002 to July 2004 and the same is still pending. The grievance of the petitioner is that the first respondent issued the impugned proceedings, without any notice or opportunity and hence the present writ petition came to be filed.

3. A perusal of the material on record discloses that as per the resolution passed in H.A.C., Area Hospital, Bhainsa, regarding leasing out of shops vide reference cited, the Medical Superintendent Area Hospital, Bhainsa, was requested to enter into an agreement for a period of three years at Rs.1,600/- per month, per each shop, from the lapsed date of previous agreement with escalation clause of raising the rent at 5% every year and to ensure that the Court cases are withdrawn before entering into the agreement.

4. A reading of the affidavit would disclose that respondent Nos.2 and 3 has some grievance with regard to respondent insisting payment of old rentals. The restraining order dated 08.11.2005 indicates the name of the defaulter, the period for which the arrears are due, the amount of arrears due, date of arrears due and the total amount. It further states that if the amount due together with batta and all expenses of distress be not previously discharged, the distrained property would be immediately brought to public sale. The grievance of the petitioner appears to be that the property which was put to sale is not mentioned in the order.

5. A counter came to be filed by the third respondent stating that the petitioner is a tenant of A.P.Vaidya Vidhana Parishad – DCHS, Adilabad Shopping Complex, Area Hospital, Bhainsa and that she has taken shop No.6 on rent on 24.07.1996 for the purpose of running medical and fancy store, for which DCHS Adilabad have fixed the rent at Rs.3,111/- per month. It is further stated that in case of any default, interest @18% on over dues shall be maintained till realisation

of over dues. It is stated that on the recommendations of local M.L.A. rental amount was reduced to Rs.1,600/- per month through Commissioner APVVP, Hyderabad, vide order dated 11.07.2002. It is stated that the petitioner has intentionally kept pending the rents from September, 2002 to October, 2005, though the third respondent was demanding for payment. Since he failed to pay the amount, the proceedings under ROR Act came to be initiated which are challenged before this Court.

6. Though this Court admitted the writ petition, but there was no interim order. In the absence of any orders, the petitioner is said to have paid an amount of Rs.1,16,105/-.

7. Having regard to the above circumstances and in the absence of any interim order granted by this Court, I see no reason to interfere with the impugned order and the writ petition is liable to be dismissed. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Writ Petition, shall stand closed.

C. PRAVEEN KUMAR, J

14.09.2017
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