

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.34993 OF 2012

ORDER :

The case of the petitioners is that they are eking their livelihood by doing petty business like selling of fruits, running saloon and electrical repair shops etc. in small bunks/shops raised by them adjoining the Victoria Memorial Ananda Samajam i.e., 7th respondent herein and that their shops are not causing any obstruction either to the traffic, drainage water or to the public. They are having electricity connections to their shops and paying house tax to the 1st respondent. While so, basing on the complaint of 7th respondent, the 1st respondent is trying to demolish these shops without following due process of law. Aggrieved by the same present writ petition is filed.

Counter affidavit is filed by the 3rd respondent stating that due to encroachments the road is narrowed and causing obstruction to the vehicular traffic; that there is likelihood of high increase of traffic in coming years, as such, encroachments become objectionable; and that there is every danger to the passers by due to obstruction of encroachers. It is also stated that earlier the Roads and Buildings Department addressed letters to the Tahsildar, Gurazala Mandal and the Executive Officer, Gram Panchayat, Gurazala for removal of encroachments, but so far the authorities have not taken any action; and that this respondent submitted reminders on 15.09.2016 to the Tahasildar, Gurazala Mandal and Executive Officer Gram Panchayat authorities requesting to take action for

removal of encroachments. It is further stated that the respondents never tried to evict the petitioners without following due process of law and that they will follow due process of law before initiating any action against the petitioners.

The 7th respondent filed counter stating that the petitioners encroached the road margin, adjacent to the Victory memorial Club and constructed temporary bunks and sheds and since ten years they are in illegal occupation by encroaching the public road without any right over the said site. It is also stated that the 7th respondent or any authority never tried to remove the encroachments forcibly without following due process of law. It is further stated that the 7th respondent approached respondents 1 to 6 several times for vacating the petitioners by following due process of law for which the authorities issued show cause notice. He finally sought for dismissal of writ petition.

Learned counsel for the petitioners submits that since petitioners are residing for the last 15 years, they cannot be removed from the said place and they have not encroached road margins. He also referred The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, seeking protection under the said Act.

On the other hand learned Assistant Government Pleader for Roads and Buildings basing on the counter submits that they will follow due process of law.

Heard Sri Ravi Cheemalapati, learned counsel for the 1st respondent.

It is to be seen that admittedly, petitioners have encroached road margin which is meant for ingress and egress to the residents therein and also causing obstruction to the vehicular traffic. In the counter it is specifically stated that the respondent authorities will follow due process before taking any action against the petitioners. Though, the learned counsel for the petitioners referred The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, no factual foundation is laid in order to attract the provisions of the said Act.

In view of the aforesaid facts and circumstances, the writ petition is disposed of directing the respondents not to evict the petitioners from the subject shops without following due process of law. However, when the respondents initiates process for eviction, it is open for the petitioners to raise all their objections before the authorities and the same shall be considered by the authorities. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

12.06.2017
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