

THE HON'BLE SRI JUSTICE S. V. BHATT

WRIT PETITION No. 29165 of 2011

ORDER:

Heard Mr.T.V.S.Prabhkar Rao for petitioner and Mr. Ravi Cheemalapati for Respondent.

2. The petitioner prays for the following relief:

“....issue writ, order or direction, more particularly one in the nature of writ of mandamus declaring the action of the Respondent in taking steps to dispossess the petitioner from the Shop No.15 at Daily Market, beside N.H.Road No.214, Thatipaka village, Razole Mandal, East Godavari District as illegal, arbitrary and in violative of principles of natural justice, consequently directing the Respondent not to dispossess of the petitioner from the said shop.”

3. The Respondent filed counter affidavit and also petition to vacate the interim order dated 01.11.2011. The stand of the Respondent is required to be placed on record, which reads thus:

“In this regard, it is submitted that the Grampanchayat is having about 23 shops in one building. The petitioner herein is one of the lease holders in the said shops. The said building is very old building and it is in dilapidated stage. The Grampanchayat has a proposal to demolish the said building and to construct two floors i.e., ground floor and first floor. The Grampanchayat has also a proposal to give the shops in the ground floors to the existing lease holders after the construction of new building is completed. All the existing lease holders have agreed for the same and they themselves have voluntarily agreed to give the vacant possession in order to demolish the existing building and in order to construct new building. The

Grampanchayat has also passed a resolution in this regard. Except the petitioner herein, other similarly lease holders are voluntarily coming forward to hand over the shops.

It is submitted that, it is relevant to state here that, in order to generate money for construction of new building, the Grampanchayat has conducted an open auction for allotment of shops on the first floor. The people have participated in the auction and almost an amount of Rs.40 lakhs was paid by the bidders, who are successful. It is further relevant to state here that the District Panchayat Officer and the District Collector have also given proposal from their side giving permission. (The said proceedings dated 12.2.2014 are herewith filed and the same may be read as part and parcel of this affidavit).

It is submitted that, the Grampanchayat is not able to generate money out of the assets, it was having in order to develop the village. In those circumstances, the above proposal was taken for consideration. It is relevant to state here that this Hon'ble Court in the present writ petition was pleased to pass an interim stay directing this respondent not to dispossess from his shop. If the same is allowed to continue, the Grampanchayat cannot take steps for construction of new building and to allot such shops to existing lease holders in the ground floor and also to the successful bidders on the first floor."

4. From the above it is clear that the shop-room under occupation of the petitioner is one of the shop-rooms owned by the Respondent-Grampanchayat. According to Respondent, the building is in dilapidated condition. The Respondent has taken a decision to demolish the building, and accommodate the existing lessees on ground floor in the new building. The Respondent further says that the petitioner will be treated on par with the

other lessees of the building in matter of demolition or respondents-allotment of a shop.

5. The learned counsel for the petitioner having regard to the stand taken in the counter affidavit consents to dispose of the writ petition by placing on record the assurance of respondents.

6. The statement of the Respondent in the counter-affidavit is placed on record and the writ petition is disposed of by this order. The respondent is given liberty to dispossess the petitioner, if possession from other lessees is already taken. If the possession is not taken from other lessees in the same building, the Respondent to act uniformly in the matter of dispossessing the lessees, as agreed in the counter affidavit, consider granting a shop to the petitioner as well in the same manner and on the same lines, in new building.

7. The writ petition is disposed of accordingly, as indicated above. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

January 17, 2017
Kv

S. V. BHATT, J

THE HON'BLE SRI JUSTICE S. V. BHATT



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Dated: January 17, 2017

Kv