

HONOURABLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION No.16911 of 2017

ORDER:

The Writ Petition is filed to declare the action of the 2nd respondent in seizing/ forcibly closing the petitioner's shop bearing No.64 admeasuring 90 square feet situated at Koneti Kalwa Street, Proddatur, YSR Kadapa District, as illegal and arbitrary and in violation of principles of natural justice.

Heard and perused the material available on record.

The petitioner obtained the subject premises on lease from Proddatur Municipality vide proceedings dated 31.03.2015 for the period from 01.04.2015 to 31.03.2018 on monthly rent of Rs.40,700/- in addition to rent, the petitioner has to pay central excise, service tax etc., totally it comes to Rs.45,731/- per month, besides other conditions. As per the terms and conditions of the proceedings, the lease terms and conditions are contained in Gazette 34 of 2014 of extraordinary Gazette of YSR Kadapa District. According to the condition No.12 of the terms and conditions of lease published in the extraordinary gazette of 34 of 2014, YSR Kadapa District, when the respondents intend to terminate the lease a thirty days clear notice is required to be issued to the petitioner.

According to the petitioner no such notice as per condition No.12 was issued to him and thereby the seizure/ closure of the shop is against the terms and conditions of the lease and no opportunity was afforded to him to submit his explanation and therefore, the impugned order is illegal.

Learned counsel for the 2nd respondent fairly conceded that no material is available as on today to establish compliance of condition

No.2, prima facie, i.e., thirty days clear notice for terminating the lease as required under condition No.12 of the Gazette.

In view of the submission of the learned counsel for the 2nd respondent the termination of lease or seizure of the property is against the terms of the lease and thereby, the seizure/ closure of the shop of the petitioner is illegal and against the terms and conditions of the lease published in the Extraordinary Gazette 34 of 2014 of YSR Kadapa District.

Accordingly, the Writ Petition is allowed setting aside the seizure/ closure of the shop of the petitioner admeasuring 90 square feet situated at Koneti Kalwa Street, Proddatur, YSR Kadapa District. The 2nd respondent is directed to deliver possession of the above said shop to the petitioner within two (2) days after the date of receipt of a copy of this order and put the petitioner in possession till he is duly evicted by following due process of law and also by following the terms and conditions referred supra. This order shall not preclude the respondent No.2, to take appropriate legal steps to evict the petitioner.

No order as to costs. Miscellaneous applications, if any, pending shall stand closed.

M. SATYANARAYANA MURTHY, J

May 11, 2017.
KTL