

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.13561 of 2015

ORDER:

The present writ petition came to be filed questioning the notice dated 17.04.2015 issued vide proceedings No.TSIIC-IALA/IP NRM/A1/R.01/2015, wherein the petitioner was directed to evict its lessee from the premises within 15 days, on the ground that the petitioner has violated the conditions of sale by allowing commercial activity instead of industrial activity in the said premises.

The only ground raised by the learned counsel for the petitioner is that, once a sale deed has been executed by the respondents in favour of the vendor of the petitioner, respondents have no right to question the subsequent acts of the vendor of the petitioner or that of the petitioner in putting the property to beneficial use.

In support of his case, learned counsel for the petitioner relies upon an order of this Court dated 16.07.2010 passed in W.P.No.7320 of 2006 & batch, wherein it has been held as under:

“Thus when transfer is completed (on execution of sale deed in case of immovable property) any restriction contained in the transfer deed disentitling the transferee from operating or disposing of his interest would be void and even when such a restriction is created, transferee can enjoy the property ignoring the same. In view of Section 4 of TP Act, all the provisions relating to contracts shall apply to TP Act and, therefore, any transfer or convenience incorporating restraint clauses would be void and the purchaser can ignore such clauses.”

The counter-affidavit filed by the respondents would show that, challenging the said order, a writ appeal was filed, which was dismissed, confirming the order of the learned single Judge. However, the averments in the counter-affidavit indicate that challenging the order passed in writ appeal, Special Leave to Appeal (Civil) Nos.22921-22956 of 2012 came to be preferred before the Hon'ble Supreme Court and on 13.08.2012, an order of status quo was said to

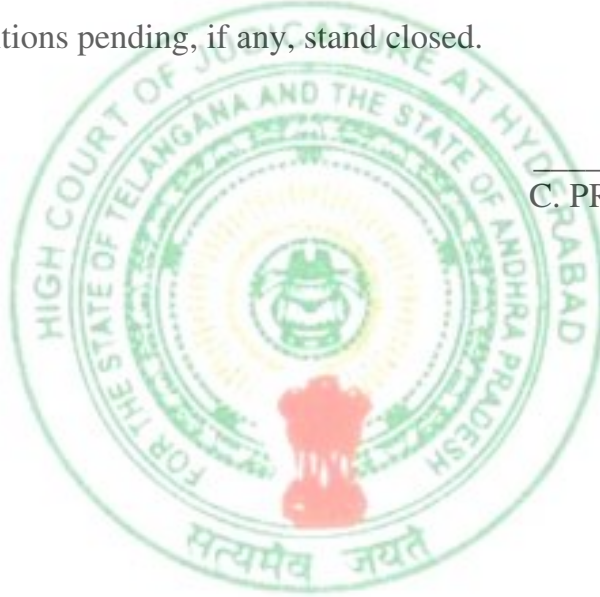
have been passed. That being the position, learned counsel for the respondents states that the present writ petition may be disposed of in terms of the order passed by the Division Bench, giving liberty to take action against the petitioner in case the judgment of the Supreme Court goes in favour of the respondents.

The said statement is not seriously opposed by the learned counsel for the petitioner.

Having regard to the same, the notice dated 17.04.2015 is set aside. However, respondents are at liberty to initiate action against the petitioner in case judgment of the Supreme Court in the aforesaid S.L.P., goes in their favour.

Writ petition is accordingly disposed of. No order as to costs. As a sequel, miscellaneous petitions pending, if any, stand closed.

June 29, 2017
MRR



C. PRAVEEN KUMAR, J