

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.17336 OF 2017

ORDER:

This writ petition is filed challenging the notice dated 19.05.2017 issued to the petitioners asking them to vacate the subject premises within seven days from the date of receipt of said notice.

The main ground on which the petitioners were asked to vacate the premises is that the petitioners have completed 25 years of lease period and the respondent-Corporation cannot extend the lease period beyond 25 years in view of G.O.Ms.No.120, Municipal Administration and Urban Development (J1) Department, dated 31.03.2011.

Learned counsel for the petitioners submits that the petitioners were granted lease from the year 1998 onwards and the rent is being enhanced by 33 1/3 percentage for every three years. Thus, he submits that the petitioners have not completed 25 years of lease period and as such G.O.Ms.No.120, dated 31.03.2011, has no application to the case of the petitioners. He further contends that the respondents without issuing any show cause notice straight away issued notice to the petitioners to vacate the premises. He further submits that no opportunity of hearing is given to the petitioners before asking to vacate the premises. In support of his contentions he relied on the judgments of this Court in W.A.No.1025 of 2016 and W.P.No.17863 of 2016.

On the other hand, learned Standing Counsel Sri Ancha Panduranga Rao submits that since the petitioners have completed 25 years of lease period, there cannot be any further extension of lease. As on today, petitioners' lease is not in subsistence, as such they cannot be permitted to continue in the subject premises.

It is to be seen that Division Bench of this Court in similar circumstances set aside the impugned notices therein and also order of the learned Single Judge refusing to grant order by holding that in respect of Corporations, Section 148(3) of the G.H.M.C. Act is applicable. The Division Bench further held that it was necessary for the respondents therein to issue notices in terms of proviso to Section 148 (3) of the G.H.M.C. Act.

At this juncture, both the counsel stated that the impugned notice may be treated as notice under Section 148 (3) of the G.H.M.C. Act.

Learned counsel for the petitioners further submits that the petitioners may be given an opportunity to file an explanation to the notice dated 19.05.2017.

In view of the above, the impugned notice dated 19.05.2017 shall be treated as show cause notice and it is open for the petitioners to submit their explanation to the said notice within a period of two weeks from today, upon which, the respondents shall consider the same and pass orders after giving an opportunity of hearing to the

petitioners. It is made clear that if the petitioners fail to submit explanation within the period of two weeks from today, it is open for the respondents to take appropriate action in pursuance to the impugned notice dated 19.05.2017, in accordance with law. Till then there shall be stay of eviction of the petitioners from the subject premises.

With the above direction, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this writ petition shall stand closed.

25.05.2017
vhb/sur

A.RAJASHEKER REDDY, J

