

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 42872 OF 2017

ORDER:

Order dated 04.12.2017 of the 2nd respondent Sub-Divisional Magistrate-cum-Revenue Divisional Officer, Rajendernagar Division, directing the petitioner to vacate the premises bearing Flat No. 109 A&B, Telecomnagar, Raidurgam Telecom Employees' Co-op. Housing Society Limited, Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, under Section 18 of the Immoral Traffic (Prevention) Act, 1956, is challenged in this Writ Petition.

The petitioner claims to be the absolute owner of plot No. 109-B of the above-said premises under the registered sale deed dated 06.08.2015, wherein he constructed a building and leased out the 2nd floor thereof, admeasuring 1850 square feet, to a partnership firm viz. ASP Enterprises, represented by one Sri Aditya Papagari, S/o Janardhana Rao of Hyderabad, on 31.10.2016 for a period of five years, on monthly rent. Alleging that certain illegal activities are being carried out therein, the police have initiated proceedings under the 1956 Act and notices were issued to the petitioner, who, pursuant thereto, submitted that he leased out the property to Sri Aditya Papagari and that he also submitted the registered lease deed before the 2nd respondent, who is the competent authority. Without considering the same, the order impugned has been passed as if the petitioner is in possession of the property. It is his further case that he had already taken necessary steps by issuing the notice to the tenant to vacate the premises.

Heard learned counsel for the petitioner as well as learned Government Pleaders for Revenue and Home (Telangana).

Learned Government Pleader for Revenue, on specific instructions received from the 2nd respondent, submits that while passing the order under challenge, the 2nd respondent, by oversight, failed to consider the factum of leasing the subject premises. In those circumstances, the learned Government Pleader fairly submits that liberty may be given to the 2nd respondent to pass fresh orders after providing an opportunity to the petitioner.

In the light of the above, the impugned order dated 04.12.2017 is set aside, however, with liberty to the respondents to pass necessary orders, in accordance with law. As it is submitted that the 3rd respondent Inspector of Police (L&O), Raidurgam Police Station had already seized the subject premises, pursuant to the order dated 04.12.2017, he shall, forthwith, hand over its possession to the petitioner.

The Writ Petition is accordingly, allowed. No costs.

Consequently, the miscellaneous Applications, if any shall stand disposed of.

CHALLA KODANDA RAM, J

18th December 2017

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