

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.3698 OF 2018

ORDER:

Heard the learned counsel for petitioners, the learned Government Pleader for Municipal Administration & Urban Development (TG) and the learned Government Pleader for Revenue representing the respondents 1 and 3, the Standing Counsel by name Smt. Bhagyasree for respondents 2 and 4 from the instructions to file appearance and perused the prayer in the writ petition with supporting affidavit and the impugned notice dated 25.01.2018 and the representation of petitioners dated 30.01.2018 and the earlier order in W.P.No.22819 of 2016, in which the present petitioners are the petitioners therein, which is stated still pending. The impugned order in the said writ petition is in force or not is the issue. The prayer in the Writ Petition reads as under:

“to issue a Writ or order or direction more particularly one in the nature of writ of mandamus declaring the impugned Notice G1/ Spl Notice/ 2018 dated 25.01.2018 issued by respondent No.2, to petitioner No.2 herein calling upon petitioner No.2 to shift the petitioners existing slaughter house located in existing meat and fish market of Khammam Municipal Corporation at Wyra Road, Khammam to III Town Area immediately, high handedly, arbitrarily, malafidely, unconstitutionally, irrationally, in clear violation of principles of natural justice and also the relevant provisions under the Act, effecting petitioners’ fundamental right to life, occupation and profession, contrary to Articles 14, 15, 16, 19, 19(1)(g) and 21 guaranteed to the petitioners under the Constitution of India, also contrary to the spirit of the orders of Hon’ble Court dated 12.07.2016 passed in W.P.No.22819/ 2016 as illegal, arbitrary, unconstitutional, malafide and to consequently set aside the same and to direct the respondents not to initiate any coercive steps to dispossess the petitioners from their slaughter house located in existing meat and fish market in Khammam Municipal Corporation at Wyra road, Khammam and to further permit

the petitioners to run the slaughter house in the said premises without demolishing the same and to pass such other order or orders may deem fit and proper in the circumstances of the case.”

2. Undisputedly, the earlier writ petition in W.P.No.22819 of 2016 is pending where they are challenging the action of respondents, in trying to demolish the municipal fish and mutton market complex without following due process of law by not providing alternative arrangement, which is contrary to the principles of natural justice and consequently seeking a direction to the respondents therein not to take coercive steps against the petitioners. There was an interim direction saying the respondent authorities therein not to take coercive steps with regard to demolition of the shops meantime by posting the matter from 12.07.2016 to 13.07.2016. Thus, leave about the interim order is only to the next day by virtue of the very mention and in the meantime and in the absence of any further extension, there is no continuation of the interim order. The contention of learned counsel for the petitioners that the interim order is still in force is nothing but fighting in the air for not in force. From the very phraseology of the order and as per the settled law, leave about the fact that the earlier writ petition is maintained for the proposed demolition in compelling to shift without providing the alternative site.

3. Now coming to the present writ petition and the factual scenario supra, there is an alternative site already mentioned in the notice dated 25.01.2018 saying they have to shift to V.Venkatayapalem in Survey No.290/ 2 to an extent of Ac.3.00 guntas. Before that it is also to mention that earlier pursuant to the order of this Court in W.P.No.22814 of 2016 and W.P.No.22819 of 2016, of the other parties among 18 meat shop holders filed W.P.No.12338 of 2016, that was withdrawn, and there was a direction to the District Collector to submit a report and it is the submission of the Government Pleader therein covered by the order/direction of the Court dated 13.07.2016 of the Standing Counsel for Municipal Corporation stating the shop occupants already vacated and alternative sites provided to carry on their business and there are three different places identified for construction, which may commence and 18 shop occupants filed W.P.No.12338 of 2016, which was withdrawn, and the shop occupants are conducting operations in the alternative sites, that was opposed by the counsel for writ petitioners saying the petitioners are in possession of the shops in question and the electricity and water connections were disconnected only in the recent past to that date and pursuant to the directions to give status report, the District Collector mentioned that an alternative place for Fish Market has been identified near DRDA office in

Khammam town and the Fish merchants have shifted their shops to that place and later they vacated the allotted area and came back to old market. So far as the meat merchants are concerned, they are running shops in the meat market approached the High Court in the two writ petitions supra against the respondent municipal authorities from demolition without following due process of law and pursuant to the order of the Court, when inspected on 19.07.2016 and found that the entrance area is disturbed and further demolition process was stopped due to opposition of meat merchants, the municipal authorities informed about the alternative open place selected near M.B. Gardens Function Hall in the outskirts of Khammam town for establishing the temporary Meat and Fish market, and the non-veg merchants proposed alternative places, of which one is the open place backside of Traffic Police Station, Khammam town where a vegetable market is existing since long back and the said place is not sufficient to accommodate and the other place is open one besides New Life Hospital, Khammam town and it is under the control of the Archeology Department and without their permission, that too when it is a patta land, they cannot accommodate. The Fish and Meat merchants are running their business in existing market at Wyra road, Khammam, that can be shifted to the proposed place, if authorities are willing to

establish temporary Meat and Fish market at the proposed area.

4. Even from the status report of the District Collector and even taken they were running the business, so far as the meat market is concerned including the present writ petitioners, once the very impugned notice clearly speaks of the alternative site provided and the accommodation provided to be shifted to V.Venkatayapalem in Survey No.290/ 2 of an extent of Ac.3.00 guntas, there is nothing to interfere for this Court by entertaining the present writ petition, but for pursuant to the show cause notice when the petitioners stated submitted their reply dated 30.01.2018 the respondents shall dispose of the same within one (1) week from the date of receipt of a copy of this order and communicate the same to the petitioners. The petitioners are at liberty, subject to the orders to shift to the alternative place. Irrespective of the existing business condition is dilapidated or otherwise till disposal of the representation and communication, the existing *status quo* shall be maintained by both parties. However, it will not give any right to the writ petitioners, unless they are otherwise entitled once the alternative site is provided to safeguard their right under Article 19(1)(g) of the Constitution of India.

With the above directions, this Writ Petition is disposed of. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

06.02.2018
MVA

