

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.9378 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief/s:

‘...to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the 2nd Respondent herein in issuing Proceedings in Rc.No.A1/508/2014, Dated: -02-2018 directing the Respondent No.3 and 4 herein to stop the payment of rent to the Petitioner herein in respect of the demised building bearing Door No.6/68 situated at Nandaluru Village, in which the Government Backward Class Boys Hostel, is being run, as illegal, irregular, arbitrary and without any authority and jurisdiction and opposed to the principles of natural justice besides bearing violative of Articles 14, 21 and 300(A) of the Constitution of India and consequently set aside the same, and pass such other orders or order as this Hon'ble Court may deem fit and proper in the circumstances of the case.’

I have heard the submissions of the learned counsel for the petitioner and of the learned Government Pleader for social welfare appearing for the respondents 1 to 4.

Learned counsel for the petitioner would submit that having been aggrieved of the proceedings issued by the 2nd respondent to the 3rd respondent directing the 3rd respondent to stop payment of rent to the petitioner in respect of the building bearing D.No.6/68 situate at Nandaluru village in which the

Government Backward Class Boys Hostel is being run the present petition is filed. He would also bring to the notice of this Court that a suit for partition is pending between the petitioner and others and that even according to the claim in the said suit, the share of the plaintiffs in the said suit is $2/9^{\text{th}}$ share and that the rest of the share is that of the petitioner and that, therefore, the petitioner is entitled to a $7/9^{\text{th}}$ share out of the rent. It is also submitted that in-fact, the petitioner having leased out the property is entitled to receive the entire rent despite the pendency of the suit for partition and that on account of the proceedings restraining payment of rent to the petitioner, the present writ petition is filed. He would further submit that as on the date of the filing of the writ petition, a sum of Rs.2,35,700/- is due to the petitioner towards arrears of rent.

Learned Government Pleader would submit that the tenancy is not in dispute and that the rent is also payable is not in dispute and that in view of the litigation pending with reference to the subject property the 3rd respondent is willing to deposit arrears of rent and also future rents to the credit of A.S.No.2 of 2018 on the file of the III Additional District court, Kadapa, to avoid any rival claims and complex situations in future involving the Government and its officers.

Having regard to the facts and submissions, the Writ Petition is disposed of directing the 3rd respondent to deposit all arrears of rent up to date and future rents every month regularly to the credit of A.S.No.2 of 2018 on the file of the III Additional District Court, Kadapa at Rajampet without prejudice to the rights and contentions of both the parties. However, it is made clear that as and when the arrears and future rents are deposited, the petitioner shall be

entitled to withdraw his share of rent, that is, 7/9th share from out of the deposited amounts by following the procedure established by law.

There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

M. SEETHARAMA MURTI, J

04.04.2018

Vjl

