

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.17461 of 2018

ORDER:

This Writ Petition is filed by the petitioners seeking a Writ of Mandamus to declare the action of the respondent No.5 in issuing impugned notice-II bearing No.G1/383/MCGP/2018, dated:07.5.2018 for eviction / demolition of the Dabbas/Tin sheds of the petitioners situated at Indira Park, Gazwel to Doualthabad Road, Gazwel Town and Mandal, Siddipet District, without affording opportunity of hearing pursuant to the explanation dated:05-05-2018 is contrary to the provisions under Municipalities Act, illegal and violative of Article 21 and 300-A of the Constitution of India and to pass appropriate orders.

2. Heard Sri Mohd. Asifuddin, learned Counsel for the petitioners, the learned Government Pleader and Sri N. Praveen Kumar, Counsel for respondent No.5.

3. It is contended by the Counsel for petitioners that the petitioners are small businessmen and doing their business on the road side margin since 1981. It is further contended by the Counsel for petitioners that when the petitioners were being dispossessed during the year 2016, they approached this Court by way of filing Writ Petition No.1744 of 2017 and this Court was pleased to close the said Writ Petition with the following order:

“On notice being issued to the respondents on 20.01.2017, learned Standing Counsel, on instructions submits that as on date, there is no proposal to evict the petitioners. However, if the petitioners are causing obstructions and in such an event, the respondents shall take any action only after issuance of notice and giving opportunity to the petitioners. Learned Standing Counsel also submits that no coercive action will be taken, without following the process.

In view of the above circumstances, recording the submissions made by the learned Standing Counsel, on instructions, the writ petition is closed, making it clear that the petitioners shall not be dispossessed, without following the due process of law. No order as to costs.

Miscellaneous petitions pending in the writ petition, if any, shall stand closed.”

4. The learned Counsel for petitioners further submits that the respondent No.5 had issued notice No.G1/383/MCGP/2018, dated:4.5.2018 calling upon them to show cause as to why they should not be evicted from the premises and to the said notice, petitioners gave an explanation dated:5.5.2018. But without taking into consideration the said explanation of petitioners, the respondent No.5 has passed the impugned notice No.G1/383/MCGP/2018, dated:07-05-2018, directing the petitioners to remove the dabbas from there immediately or else action will be initiated as per the provisions of Municipalities Act, 1965. Aggrieved by the same, the present Writ Petition is filed.

Contd..P.3.

5. The learned Counsel appearing for the respondents submits that the petitioners have no right to do business by occupying the road margin.

6. The learned Counsel for the petitioners further submits that reasonable opportunity may be given to the petitioners so as to enable them to approach the competent Civil Court for redressal of their grievances.

7. Having considered the submissions made by the rival parties, this Court is of the considered view that the impugned notice directing the petitioners to evict from the premises within 24 hours without taking the explanation submitted by them is arbitrary, illegal and violative of Principles of Natural Justice and ends of justice would be met if the writ petition is disposed of directing the respondent No.5 to consider the explanation submitted by the petitioners on 5.5.2018 and pass fresh orders after hearing the petitioners by giving reasonable opportunity to them, within a period of six weeks from the date of receipt of a copy of this order. The impugned notice No.G1/383/MCGP/2018, dated:07-05-2018 passed by respondent No.5 is set aside.

8. Accordingly, the Writ Petition is disposed of.

Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed.

ABHINAND KUMAR SHAVILI, (J)

Dated:10-5-2018

gnr

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI



WRIT PETITION No.17461 of 2018

DATED:10-5-2018

gnr