

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 6479 OF 2011

ORDER:

Challenging the Notice, dated 10.03.2011, issued by the respondent-Commissioner, Tuni Municipality, the present Writ Petition is filed.

2) The Notice reads as under:

“Vide office ROC No.1995/F-1, dated 29.11.2010, this office has directed you to shift the gunny bag godown situated in T.B. Road, Tuni, since the same is caused in convenience to the neighbour hood and also caused health hazard. However, you have shifted your business from the above place. But the same is being used as godown for keeping the gunny bags. In view of the same, the neighbour hood facing lot of trouble. The Local public threatened to fast hunger strike from 11.03.2011 in this regard.

Therefore, you are hereby directed to close and vacate the godown within 24 hours. Otherwise action will be taken as per law.”

3) It is the case of the petitioner that he has been running old gunny bags business under the name and style of M/s. Vangalapudi Appa Rao, for the last 30 years, without there being any complaint from anyone and the said business premises is situated in a commercial area. It is further submitted that contrary to the provisions of the Andhra Pradesh (Andhra Area) Public Health Act, 1939 (in short “the Act”), the respondent got issued the notice, dated 29.11.2010, to the petitioner alleging that his business activity is causing nuisance to the neighbourhood, school-going children and inconvenience to the pedestrians and thereby, directed him to shift his business activity within two weeks from the date of receipt thereof. He made a representation to the respondent to drop further action. However, in due obedience to the said notice, he shifted the business activity to outskirts of Tuni Municipality, even though there is no

inconvenience as mentioned in the notice dated 29.11.2010. It is further submitted that after shifting his business activity, he has been using the same as godown to keep the gunny bags. However, the respondent got issued another notice, dated 10.03.2011, directing him to vacate the godown within 24 hours. It is further submitted that the respondent acted highhandedly, at the behest of the owner of the building, who is trying to evict him from the said building, without any recourse to the procedure contemplated under law. Hence, the present Writ Petition.

4) The respondent filed a counter-affidavit stating that pursuant to the complaints received from the public regarding inconvenience and health hazards due to the petitioner's business, the notice, dated 29.11.2010, was issued to him informing that he was running the manufacturing centre within the residential area, without obtaining any license, as required under Sections 263 & 264 of the Act and, thereby, causing health hazards to the public and also directed to submit explanation as to why the godown should not be shifted, but the petitioner did not do so. It is further submitted that the respondent officials have inspected the godown, situated in Ammajipeta, Travellers Bungalow road at Door No.1-11-03, wherein, presently, the manufacturing unit is not being run and the machinery is also not in working condition and the same is being used for godown purpose as it is in dilapidated condition. However, since the petitioner has been continuing the godown in the midst of the residential locality, which has become a breeding factor for rodent menace, he cannot be allowed to continue the same in the residential area as per the Building Rules and Zoning Regulations of Master Plan of the Municipality. Hence, prayed for dismissal of the Writ Petition.

5) Heard Sri V.V.N.Narayana Rao, learned counsel for the petitioner and Sri Nimmagadda Venkateswarlu, learned Standing Counsel for the respondent.

6) Considering the respective submissions, as can be seen from the writ affidavit, the petitioner has shifted the business premises and further as on date, even as per the counter affidavit of the respondent, the petitioner is no longer using the premises for manufacturing the gunny bags and the machinery is also not in working condition. Merely because the petitioner is storing certain material in the subject premises, that by itself, cannot be said to be causing any nuisance or public hazard. Hence, if the petitioner causes any nuisance in future, it would be open for the respondent authorities to issue notice calling for his explanation and take action against him in accordance with law. It is made clear that in the event the petitioner uses the subject premises for any other purpose, he is required to obtain license, in terms of Section 263 of the Act read with Schedule 4 of the A.P. Municipalities Act. Therefore, the petitioner shall be put on notice directing to obtain licence within the specified period, who shall comply with the same, subject to his rights.

7) With the above observation, the Writ Petition is disposed of. No costs.

Consequently, the Miscellaneous Applications pending, if any, shall stand closed.

CHALLA KODANDA RAM, J

Date: 01.11.2018

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