

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition no.37646 of 2014

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner, a company registered under the Indian Companies Act, assailing the final notice, dated 10.11.2014, issued under Section 622(4) of the Hyderabad Municipal Corporation Act, 1955, as applicable to the Vijayawada Municipal Corporation under Section 7 of Act 23 of 1981.

2. I have heard the submissions of *Sri S.S.Prasad*, learned senior counsel appearing for *Ms. C.Sndhu Kumari*, learned counsel appearing for the petitioner; of *Sri T.S Venkata Ramana*, learned Standing Counsel appearing for the 1st respondent; and, of *Sri D.Anil Kumar*, learned counsel appearing for the 2nd respondent. I have perused the material record.

3. By the impugned notice, the 1st respondent required the petitioner to submit a copy of the lease deed, which enables it to use & occupy the premises; and, seven days time was granted for the said compliance. In the said notice, it is further stated that on failure to fulfil the said condition within the said period, the licence shall be cancelled or revoked and that as per the Bye-Law, the premises being used by the petitioner will be closed and the goods therein will be seized.

4. Aggrieved thereby, the petitioner filed this writ petition *inter alia* stating as follows:

“The petitioner submitted a reply, dated 15.11.2014, stating as follows: ‘There are disputes between the petitioner and the landlord/ owner of the premises and that a suit for eviction has also been filed by the landlord and that it ended in a compromise; that as per the terms of the compromise decree, the petitioner is entitled to continue in the premises; that as per the terms of the compromise decree, the lease was extended up to 31.05.2016; that it would take some time for obtaining certified copies from the Court; and that, therefore, the petitioner requires some time to produce the copy of the lease deed & other documents.’ In the said reply a request for grant of (45) days time was made by the petitioner. This writ petition is filed as coercive action is being sought to be initiated against the petitioner without granting sufficient time and opportunity of hearing.”

5. This Court admitted the writ petition, on 05.12.2014, and granted the following interim order:

“Having regard to the fact that under the compromise decree dt.28-06-2006 in O.S.No.99 of 2003 of I Additional Senior Civil Judge, Vijayawada, the petitioner is entitled to continue in occupation of the subject premises for the period upto 31-05-2016, the insistence by 1st respondent that the petitioner produce copy of the lease deed and on the failure of the petitioner to do so, issuing a final notice under Section 622(4) of the GHMC Act, 1955, cannot be sustained, particularly in the light of the language in bye-law 3(2)(b) of the Hyderabad Municipal Corporation Control and Supervision of Premises Used for Certain Purposes Bye-Laws, 1973 notified vide G.O.Ms.No.288 Municipal Administration dt.04-07-1970.

Therefore, there shall be interim direction as prayed for.”

6. The 2nd respondent as well as the 1st respondent filed vacate stay petitions, viz., W.V.M.P.nos.4011 of 2014 & 4371 of 2017, requesting to vacate the aforesaid interim order, dated 05.12.2014.

7. The 2nd respondent is denying relationship of landlord and tenant between him and the petitioner; however, the petitioner contends that the petitioner is a tenant in the premises and there is a clause for extension of the terms of the lease and that there is record to show that the petitioner is entitled to occupy & use the premises.

8. At the hearing, the learned senior counsel for the petitioner, learned counsel for the 2nd respondent and the learned Standing Counsel appearing for the 1st respondent-Corporation are in agreement that instead of the vacate stay petitions, this writ petition can be disposed by directing to treat the final notice, which is impugned in the writ petition, as a show-cause notice and by giving appropriate directions which may meet the ends of justice.

9. Accordingly, the Writ Petition is disposed of directing the authorities to treat the impugned notice as a show-cause notice and further directing the petitioner to submit a written explanation to the said show-cause notice (impugned final notice) along with copies of documents, if any, within four weeks from the date of receipt of a copy of this order. It is further directed that on receipt of such explanation from the petitioner, the 1st respondent shall consider and dispose of the same in strict accordance with the procedure established by law, however, after giving an opportunity of filing objections to the 2nd respondent and an opportunity of hearing to the petitioner as well as the 2nd respondent. It is needless to state that the 1st respondent shall complete the necessary exercise in the above regard within four weeks

from the date of filing of the explanation by the petitioner; and, communicate the decision taken thereon, within a week thereafter, to the petitioner as well as the 2nd respondent.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

08.08.2018
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