

THE HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION Nos.3867, 3884 , 4152 and 4271 of 2016

COMMON ORDER:

Heard the learned counsel for the petitioners as well as the learned Standing counsel for the 2nd respondent-Municipality.

Since the issue involved is one and the same in all these four Writ Petitions, with the consent of the parties, common orders are being passed.

The prayer in the Writ Petition No.3867 of 2016 is as under:

“ To issue an order, writ or direction more particularly in the nature of Writ of Mandamus under Article 226 of the Constitution of India questioning the action of the respondents No.1-3 in seeking to demolish the shop and work shop of the petitioner in an extent of 0.14 cents out of Ac.1.36 cents in Survey No.79-2B bearing door No.7-7-1 known as “Chinna Raju Compound” situated at Vasavi Dharma Sala Road, Hindupur Municipal limits, Hindupur, Anantapur District without considering the Status quo orders in IA.532/2015 in O.S.No.225/2015 on the file of Junior Civil Judge, Hindupur is illegal, arbitrary, unjust and violative of Articles 14, 21 and 300-A of the Constitution of India and violation of the principles of natural justice and consequently direct the respondents forbear the proposal to demolishing the petitioner’s shop and workshop in above mentioned property and pass such other order or orders that the Hon’ble High Court may deem fit and proper in the interest of justice.”

The prayer in the Writ Petition No.3884 of 2016 is as under:

“To issue an order, writ or direction more particularly in the nature of Writ of

Mandamus under Article 226 of the Constitution of India questioning the action of the respondents No.1-3 in seeking to demolish the shop and work shop by name “Jawahar Safe Company” of the petitioner in an extent of 0.36 cents out of Ac.1.36 cents in Survey No.79-2B bearing door No.7-7-1 known as “Chinna Raju Compound” situated at Vasavi Dharma Sala Road, Hindupur Municipal Limits, Hindupur, Anantapur District without considering the Status quo orders in IA.389/2015 in O.S.No.155/2015 on the file of Junior Civil Judge, Hindupur is illegal, arbitrary, unjust and violative of Articles 14, 21 and 300-A of the Constitution of India and violation of the principles of natural justice and consequently direct the respondents forbear the proposal to demolishing the petitioner’s shop and work shop in above mentioned property and pass such other order or orders that the Hon’ble Court may deem fit and proper in the interest of justice.”

The prayer in the Writ Petition No.4152 of 2016 is as under:

“To issue an order, writ or direction more particularly in the nature of Writ of Mandamus under Article 226 of the Constitution of India questioning the action of the respondents No.1-3 in seeking to demolish the shop and workshop by name “New Jawahar Steel Furniture Works” of the petitioner in an extent of 0.09 cents out of Ac.1.36 cents in Survey No.79-2B bearing door No.7-7-1 known as “Chinna Raju Compound” situated at Vasavi Dharma Sala Road, Hindupur Municipal limits, Hindupur, Anantapur District without considering the pendency of IA.407/2015 in O.S.No.163/2015 on the file of Junior Civil judge, Hindupur is illegal, arbitrary, unjust and violative of Articles 14,21 and 300-A of the Constitution of India and violative of the principles of natural justice and consequently direct the respondents forbear the proposal to demolishing the petitioner’s shop and work shop in above mentioned property and pass such other order or orders that the Hon’ble Court may deem fit and proper in the interest of justice.”

The prayer in the Writ Petition No.4271 of 2016 is as under:

“To issue an order ,writ or direction more particularly in the nature of Writ of Mandamus Under Article 226 of the Constitution of India questioning the action of the respondents No.1-3 in seeking to demolish the shop and workshop by name “Sri Lakshmi Venkateswara Transport” of the petitioner in an extent of 0.05 cents out of Ac.1.36 cents in Survey No.79-2B bearing door No.7-7-1 known as “Chinna Raju Compound” situated at Vasavi Dharma Sala Road, Hindupur Municipal limits, Hindupur, Anantapur District without considering the pendency of O.S.No.233/2015 on the file of Junior Civil Judge, Hindupur is illegal, arbitrary , unjust and violative of Articles 14, 21 and 300-A of the Constitution of India and violation of the principles of natural justice and consequently direct the respondents forbear the proposal to demolishing the petitioner's shop and workshop in above mentioned property and pass such other order or orders that the Hon'ble Court may deem fit and proper in the interest of justice.”

The facts of the case are that the petitioners are having shops and workshops in their extents out of total extent of Ac.1.36 cents in Sy.No.79-2B bearing Door No.7-7-1 known as ‘Chinna Raju Compound’ situated at Vasavi Dharmasala Road, Hindupur Municipal limits, Hindupur, Ananthapur District. The 4th respondent is the original owner of the property to an extent of Ac.1.36 cents, known as ‘Chinna Raju Compound’. It is relevant that the said compound is consisting of several shops with different extents. In the said shops, different persons are carrying out different activities including the petitioners herein in an extent of 0.14 cents, 0.36 cents, 0.09 cents and 0.05 cents respectively. The petitioners are paying electricity bills and municipal tax for the respective shops and workshops and they are in peaceful

possession. When there was interference by the original owner, all the four petitioners herein, have filed civil suits and obtained orders of *status quo* vide IA.No.532/2015 in O.S.No.225/2015 and IA.No.389/2015 in OS.No.155/2015. On 18.12.2015. Some of the ruling party leaders, in collusion with the estate owner, came to the subject premises and tried to dispossess the petitioners. The said instance was also published in all the local newspapers on 19.12.2015. However, all the petitioners resisted the said activity of the 4th respondent in dispossessing them. It is also stated that on 1.2.2016, the Town Planning Officer and the other officials of the 2nd respondent municipality came to the shops and measured the land. The petitioners informed about the *status-quo* orders passed by the Civil Court. On enquiry, it was informed to the petitioners that they are taking steps in the form of measurement of the shops for demolition as the structure is in a dilapidated condition, constructed more than 80 years back. The petitioners have asserted that before resorting to the said high handedness action by the Town Planning Officer and the other officials of the 2nd respondent-municipality, no show cause notice has been issued to them, thereby the principles of natural justice have been violated. In those circumstances, these four writ petitions have been filed.

When the matter is taken up, the learned Standing counsel appearing for the 2nd respondent-Municipality would submit that no counter affidavit has been filed in all the four writ petitions, but in other connected writ petitions, written instructions have been filed to the extent that the 2nd respondent-Municipality is no way concerned with the alleged instance of either interference or measuring the subject property. He also contend that no

complaints of whatsoever is filed before the 2nd respondent-Municipality with regard to the dilapidated condition of the subject premises. Since the subject premises is a private party, the 2nd respondent-Municipality has nothing to do with the same and the dispute is between the petitioners and the original owner. Learned Standing counsel also contends that they never tried to interfere with the possession of the petitioners and they are not taking any steps either to demolish the building or dispossess the petitioners from their respective shops. If any complaint is filed, the Municipality will issue show cause notice and take appropriate steps by following the due process of law.

Therefore, in the light of the statement made by the learned Standing counsel, all the four Writ Petitions are closed since no further orders are required.

Miscellaneous petitions pending, if any, in these Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE P.KESHA RAO

Date: 19/04/2018

lkv