

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.37875 OF 2018

ORDER:

The present writ petition came to be filed seeking the following relief:

“To declare the impugned eviction notice issued by the 3rd respondent dated 29.09.2018, vide Notice No. PC/Traffic/2017-2 to the petitioner directing to vacate the respective shop situated at S.No. 467/ 1 and 467/ A, on the bank of Commercial Canal, Kakinada Port, admeasuring 8 sq.mts., within 15 days, as illegal, arbitrary, unconstitutional, contrary to the order passed by the Hon'ble Court in W.P.No. 32852/ 2018, dated 29.09.2018 and violative of Articles 14, 19 (1)(g), 21 of the Constitution of India and consequently set aside the same.”

2. Earlier, the petitioner filed W.P.No. 32852 of 2018 questioning the action of the authorities in trying to remove the encroachments on the subject land without following due process of law. This Court disposed of the said writ petition on 19.09.2018, directing the authorities to follow due process of law by issuing notice to the petitioner. Pursuant thereto, the impugned notice dated 29.09.2018 came to be issued to the petitioner, asking him to vacate the subject premises within (15) days from the date of receipt of a copy of the order. The said notice is challenged by the petitioner in the present writ petition.

3. The learned counsel for the petitioner would submit that no opportunity was given to the petitioner to explain his stand, and

straightaway, the impugned notice came to be issued asking him to vacate the premises.

4. Learned Government Pleader for Revenue and Standing Counsel for Kakinada Municipal Corporation would submit that the impugned notice may be treated as a show cause notice, to which the petitioner may be directed to submit his explanation, and thereafter, the authorities concerned will take steps in accordance with law.

5. Having regard to the facts and circumstances of the case, the present writ petition is disposed of with consent at the admission stage, directing the petitioner to treat the impugned notice dated 29.09.2018 issued by the Port Officer, Kakinada Port as a show cause notice, and submit his explanation to the same within a period of ten days from today, and thereafter, the authority concerned shall pass orders in accordance with law, at the earliest. In case no explanation is submitted by the petitioner within the stipulated period of ten days, the authorities can take appropriate steps in accordance with law. Till such orders are passed by the concerned authority, basing on the explanation given, status quo as on today to be maintained. No order as to costs. As a sequel to disposal of the writ petition, miscellaneous petitions pending, if any, shall stand closed.

26.10.2018
DMG

C. PRAVEEN KUMAR, J