

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION Nos.40359, 40268, 40269, 40297 & 40343 OF 2018

COMMON ORDER:

Since the issue involved in all these writ petitions is one and the same, the writ petitions are disposed of by this common order.

2. These writ petitions came to be filed seeking to declare the impugned eviction notices issued by the 3rd respondent dated 29.09.2018, vide Notice Nos. PC/ Traffic/ 2017-16, PC/ Traffic/ 2017-18, PC/ Traffic/ 2017-13, PC/ Traffic/ 2017-19, PC/ Traffic/ 2017-20 respectively, to the petitioners directing to vacate their respective shops situated at Survey Nos. 467/ 1 and 467/ A, on the bank of Commercial Canal, Kakinada Port, 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.

3. Earlier, the petitioners 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 petitioners. Pursuant thereto, the impugned notice dated 29.09.2018 came to be issued to the petitioners, asking them to vacate the subject premises within (15) days from the date of receipt of a copy of the order. The said notices are challenged by the petitioners in the present writ petitions.

4. The learned counsel for the petitioners would submit that no opportunity was given to the petitioners to explain their stand, and straightaway, the impugned notices came to be issued asking them to vacate the premises. The same is opposed by the learned Government Pleader for Roads and Buildings.

5. However, learned Government Pleader for Revenue and learned Standing Counsel for Kakinada Municipal Corporation would submit that the impugned notices may be treated as a show cause notices, to which the petitioners may be directed to submit their explanations, and thereafter, the authorities concerned will take steps in accordance with law.

6. Having regard to the facts and circumstances of the case, the present writ petitions are disposed of with consent at the admission stage, directing the petitioners to treat the impugned notices dated 29.09.2018 issued by the Port Officer, Kakinada Port as a show cause notices, and submit their explanations 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 petitioners 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.

7. As a sequel to disposal of the writ petitions, miscellaneous petitions pending, if any, shall stand closed.

C. PRAVEEN KUMAR, J

09.11.2018
vnb