

HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.42204 of 2018

ORDER:-

Heard learned Counsel for the petitioner and learned Government Pleader for Home and learned Government Pleader for Revenue for the respondents.

2. Seizure of house bearing No.2-101/1A, Thangallapally village, Sircilla, Rajanna Sircilla District, is under challenge in the present Writ Petition.

3. According to the petitioner, she is the absolute owner and possessor of the subject house which she constructed in the year 2009 by duly obtaining permission from the Gram Panchayat.

4. The short question that arises for consideration in the present Writ Petition is whether the seizure or attachment can be effected under Section 18 of the Immoral Traffic (Prevention) Act, 1956, without being preceded by a notice?

5. In the instant Writ Petition, it is the specific case of the petitioner herein that respondents No.2 to 4 at the behest of the 5th respondent seized the subject house in contravention of Section 18 of the Act without issuing any notice. Section 18(1) of the Act reads as under:-

“18. Closure of brothel and eviction of offenders from the premises:- (1) A Magistrate may, on receipt of information from the Police or otherwise, that any house, room, place or any portion thereof within a distance of two hundred metres of any public place referred to in sub-section (1) of Section 7, is being run or used as a brothel by any person or is being used by prostitutes for carrying on their trade, issue notice on the owner, lessor or landlord of such house, room, place or

portion or the agent of the owner, lessor or landlord or on the tenant, lessee, occupier of, or any other person incharge of such house, room, place, or portion, to show cause within seven days of the receipt of the notice why the same should not be attached for improper user thereof; and if, after hearing the person concerned, the Magistrate is satisfied that the house, room, place or portion, is being used as a brothel or for carrying on prostitution, then the Magistrate may pass orders –

(a) directing eviction of the occupier within seven days of the passing of the order from the house, room, place or portion;

(b) directing that before letting it out during the period of one year, or in a case where a child or minor has been found in such house, room, place or portion during a search under Section 15, during the period of three years, immediately after the passing of the order, the owner, lessor, or landlord or the agent of the owner, lessor or landlord shall obtain the previous approval of the Magistrate.

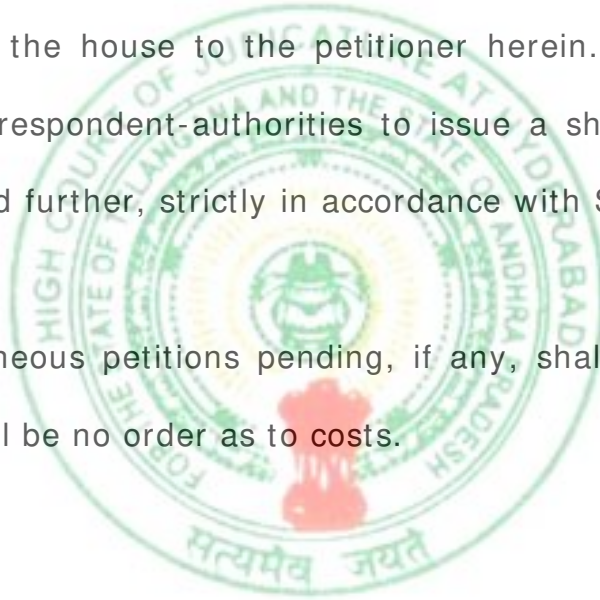
Provided that, if the Magistrate finds that the owner, lessor or landlord as well as the agent of the owner, lessor or landlord, was innocent of the improper user of the house, room, place or portion, he may cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor or landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise given possession of, to or for the benefit of the person who was allowing the improper user therein.”

6. It is very much evident from a reading of the above provision of law that before ordering closure of the premises, it is obligatory on the part of the competent authority to issue a show cause notice, giving seven days time to offer explanation from the date of receipt of the said notice to the occupier, owner etc. A perusal of

the Panchanama said to have been conducted on 19.06.2018 does not disclose anything with regard to the compliance of the said provision of law. Therefore, on this short ground, the Writ Petition is liable to be allowed.

7. For the aforesaid reasons, the Writ Petition is allowed, declaring the seizure of the house bearing No.2-101/1A, Thangallapally village, Sircilla, Rajanna Sircilla District, as illegal, arbitrary and violative of Section 18 of the Immoral Traffic (Prevention) Act, 1956 and the principles of natural justice and consequently, the respondents are directed to handover the possession of the house to the petitioner herein. However, it is open for the respondent-authorities to issue a show cause notice and to proceed further, strictly in accordance with Section 18 of the Act.

Miscellaneous petitions pending, if any, shall stand disposed of. There shall be no order as to costs.



A.V.Sesha Sai, J

Date: 14.12.2018
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