

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

Writ Petition Nos.16371 and 16388 of 2019

COMMON ORDER:

Since the issue involved in these two writ petitions is common therefore, they are being disposed of by this common order.

2. These two writ petitioners were granted license in Municipal Shops owned by the Municipal Shopping Complex at Jogipet with effect from 01.07.2012. However, even after the expiry of the original license period, they continued to occupy the shops in question. In the year 2018 the Municipality has taken steps to conduct auction. At that stage, the petitioners filed W.P. Nos.1712 and 1721 of 2018 and the same were disposed of by order dt.23.01.2018. Operative portion of the said order reads as under:

“Having regard to the above and pursuant to the impunged notices as the writ petitioners agreed to pay at the said enhanced rate as per the original terms of the respective Lease Agreements, they shall be continued till the end of June 2018, subject to clearing of arrears within one (1) month from today and for any non-payment they are liable to be vacated by virtue of this order within one (1) week from the expiry of the time now fixed and to pay all the arrears without prejudice to the recovery of damages for use and occupation at a reasonable amount if any. The proposed auction by the respondents no way be interdicted, but for such auction period commences from 01.07.2018 only. There is no bar subject to clearing of arrears as per the Rules, if at all the petitioners want to participate.”

3. Though this Court had fixed the time limit for vacation of the premises in question by 30.06.2018 petitioners did not vacate the premises in question. Since the Proceedings of the year 2018 were not finalized, the Municipality has again notified to conduct auctions and based on the bid offered the persons were identified to award license to them. Consequently, notices were issued to the petitioners directing them to vacate the premises in question within three days from the date of notice.

4. This notice is challenged in the present writ petitions.

5. The learned counsel for the petitioners sought to contend that this notice is in violation of Section 194 B of the Telangana Municipalities Act, 1965 (for short “the Act”). Provision requires a minimum 30 days of notice. The learned counsel further submits that the petitioners have been paying revised rents and there are no arrears of rent payable by them. He further submits that they were not put on notice about conducting fresh auction and they were not aware of the auction proceedings.

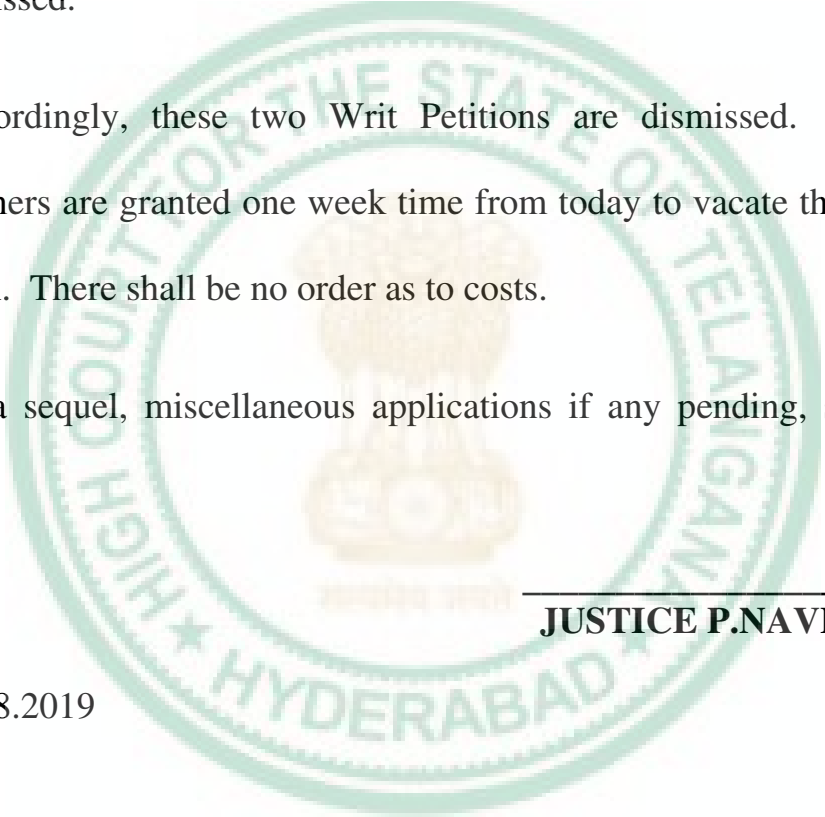
6. In the earlier round of litigation, petitioners have challenged conducting of auction and the decision to evict them and this Court directed them to continue till 30.06.2018 subject to fulfillment of conditions imposed therein. This Court also granted liberty to evict them if they did not vacate the premises by 30.06.2018. This order was independent of the auction proposed at that point of time and in terms thereof, the petitioners were to vacate by 30.06.2018. However, they continued to occupy the premises in question. In the facts of these cases, it cannot be said that petitioners were not aware of auction notice. Apparently, the petitioners have not participated in the fresh auctions and the shops occupied by them stood allotted to successful bidders.

7. In the background facts of this case Section 194 B is not attracted in as much as in terms of the directions issued by this Court, the petitioners were to vacate the premises in question by 30.06.2018 but illegally even after 30.06.2018, they continue to occupy the premises. Therefore, they cannot take the shelter under Section 194 B of the Act.

8. Having regard to the facts and circumstances of the case and on due consideration of the submissions made by the learned counsel for the petitioners, I find no merits in the writ petitions and therefore they are liable to be dismissed.

9. Accordingly, these two Writ Petitions are dismissed. However, the petitioners are granted one week time from today to vacate the premises in question. There shall be no order as to costs.

10. As a sequel, miscellaneous applications if any pending, shall stand closed.



JUSTICE P.NAVEEN RAO

Date: 02.08.2019
LSK