

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.16434 OF 2019

Date: 05.08.2019

Between:

Soma Subash S/o.S.Venkaiah,
Aged about 53 yrs, Occu : Business,
R/o.H.No.3-19, Kurma Galli,
Jogipet Village, Andol Mandal,
Sanga Reddy District.

.....Petitioner

And

The State of Telangana,
rep. by its Prl. Secretary,
Municipal Administration and
Urban Development Department,
Secretariat, Hyderabad & another

.....Respondents



The Court made the following:

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.16434 of 2019

ORDER:

Petitioner was granted license of Shop No.11 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, petitioner continued to occupy the shop in question. In the year 2018 the Municipality has taken steps to conduct auction. At that stage, the petitioner filed W.P. No.1833 of 2018 and the same was disposed of by common order dt.24.01.2018. Operative portion of the said order reads as under:

“Having regard to the above and pursuant to the impugned 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.”

2. Though this Court had fixed the time limit for vacation of the premises in question by 30.06.2018 petitioner 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, notice was issued to the petitioner directing him to vacate the premises in question within three days from the date of notice. The notice was dated 29.06.2018, but petitioner claims to have received the same on 31.07.2019.

3. This notice is challenged in the present writ petition.

4. The learned counsel for the petitioner 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 petitioner has been paying revised rents and there are no arrears of rent payable by him. He further submits that petitioner was not put on notice about conducting fresh auction and he was not aware of the auction proceedings.

5. In the earlier round of litigation, petitioner has challenged conducting of auction and the decision to evict him and this Court directed him to continue till 30.06.2018 subject to fulfillment of conditions imposed therein. This Court also granted liberty to evict petitioner if he 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 petitioner has to vacate by 30.06.2018. However, he continued to occupy the premises in question. In the facts of this case, it cannot be said that petitioner was not aware of auction notice. Apparently, the petitioner has not participated in the fresh auction and the shop occupied by him stood allotted to successful bidder.

6. In the background facts of this case Section 194 B of the Act is not attracted in as much as in terms of the directions issued by this Court, the petitioner has to vacate the premises in question by 30.06.2018 but illegally even after 30.06.2018, he continued to occupy the premises. Therefore, he cannot take the shelter under Section 194 B of the Act.

7. Having regard to the facts and circumstances of the case and on due consideration of the submissions made by the learned counsel for the petitioner, I find no merit in the writ petition and therefore the same is liable to be dismissed.

8. Accordingly, the Writ Petition is dismissed. However, the petitioner is granted one week time from today to vacate the premises in question. Miscellaneous petitions pending, if any, shall stand closed.

P.NAVEEN RAO,J

Date: 05.08.2019
Rds