

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.27466 of 2019

ORDER:

The present writ petition is filed seeking a *Writ of Mandamus* to declare the proceedings No.A/3453/2017, dated 21.10.2017 issued by the 3rd respondent/Revenue Divisional Officer-cum-Sub. Divisional Magistrate, Secunderabad Division, whereby the petitioner was called upon to show cause as to why the house/flat bearing No.5-3-101, first floor, Rao Mahal, Jeera, Secunderabad, should not be attached for improper use thereof, as being illegal, arbitrary and in violation of principles of natural justice and contrary to the provisions of the Immoral Traffic (Prevention) Act, 1956 and also the Code of Criminal Procedure, with a consequential direction to set aside the aforestated proceeding pending before the 3rd respondent and to pass such other suitable order, as this Court may deem fit and proper in the circumstances of the case.

Heard Sri D. Vayu Sen, learned counsel for the petitioner and the learned Government Pleader for Home appearing for the respondents.

It is submitted by the learned counsel for the petitioner that in response to the said notice issued by the 3rd respondent, the petitioner has offered her explanation by letter dated 27.11.2017 enclosing therewith the documents

establishing that the petitioner has taken sufficient measures before the house/flat was let out. He would further submit that despite the petitioner having submitted the explanation on 27.11.2017, the 3rd respondent has not passed any order on the said explanation and the house/flat, which is the property mentioned in the notice, continues to be under seizure of the authorities.

The learned counsel for the petitioner also submits that in similar circumstances, this Court in Writ Petition No.18860 of 2018 directed the authorities to pass appropriate orders on merits on the explanation given by the owner of the house with regard to such seizure and places a copy of the said judgment on record of this Court.

On the other hand, the learned Assistant Government Pleader for Home submits that the 2nd respondent-Inspector of Police, Gandhinagar Police Station by letter No.459/PS-GNR/OW/17, dated 17.10.2017 has merely reported to the 3rd respondent that a case has been registered in Crime No.276 of 2017 for the offences punishable under 370 of the Indian Penal Code, 1860 and Sections 3, 4, 5 and 7 of Immoral Traffic (Prevention) Act, 1956, since a brothel house was being run in the premises mentioned to enable such authority to take appropriate action as provided under the Immoral Traffic (Prevention) Act. He would submit that acting upon such reporting, the 3rd respondent authority has issued

the impugned show cause notice calling upon the petitioner, who is the owner of the above premises, to give explanation to the queries mentioned in the show cause notice, along with documents in support of the ownership.

The learned Assistant Government Pleader for Home further submits that the police authorities have not seized the above said premises, but only recommended the matter to the 3rd respondent for initiating appropriate action, upon which the impugned show cause notice was issued by the 3rd respondent.

Having regard to the submissions made on both sides and having perused the entire material available on record and having regard to the order passed by this Court in W.P.No.18860 of 2018, this Court is of the considered view that a similar direction as given in WP No.18860 of 2018 can be passed in the present petition also.

In view of the above, the 3rd respondent is directed to pass appropriate orders on the explanation given by the petitioner, vide its letter dated 27.11.2017 in response to the impugned notice dated 21.10.2017 on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order, after affording reasonable opportunity of hearing to the petitioner. Till such time the 3rd respondent considers the explanation of the petitioner and pass orders thereon, the respondents shall not

interfere with the personal liberty and rights of the petitioner in respect of the subject premises without following due process of law.

Subject to the above direction, the writ petition is disposed of. However, there shall be no order as to costs.

As a sequel thereto, Miscellaneous Applications, if any, pending in this writ petition shall stand closed.

T. VINOD KUMAR, J

Date: 18.12.2019
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