

HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.18279 of 2014

ORDER:

There is no representation on behalf of the petitioner.

The prayer sought in the writ petition is as under:

“... to issue writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent calling the petitioner to P.S. Humayun Nagar, and locking the petitioner's pan shop bearing No.10-3-11/A, in the name and style of Shaik Azhar Uddin Pan Shop, admeasuring 36 square feet, situated at Mehadipatnam, Hyderabad, and also interfering and asking the petitioner to vacate the same and also withholding the keys to the shop is in violation of Article 14, 19(1)(g) and 21 of Constitution of India and also in violation of principles of natural justice and consequently direct the 2nd respondent to hand over the keys of the subject shop to the petitioner and also direct not to interfere with the petitioner business and property premises bearing shop bearing No.10-3-11/A, in the name and style of Shaik Azhar Uddin Pan Shop, admeasuring 36 square feet, situated at Mehadipatnam, Hyderabad.”

The 2nd respondent filed a counter affidavit denying the averments made in the affidavit filed in support of the writ petition and contended *inter alia* that one Mohd. Yousufuddin, s/o. Md. Zaheeruddin approached the Humayun Police Station, Hyderabad, on 02.07.2014 and lodged a complaint stating that on 02.07.2014 at about 05.00 p.m., when he went to his pan shop, which has been given on rent to Md. Azharuddin, the petitioner herein, and asked for rent, the petitioner and his brother by name Md. Atharuddin created nuisance and beat him with hands in the public and the said persons treated him recklessly since many days. Hence, he requested the police to take necessary action. Upon receipt of the said complaint, a petty case was booked

against the petitioner and Md. Atharuddin for the offence under Section 70(B) of the City Police Act and Section 323 IPC on the file of Humayunnagar Police Station and a charge sheet was filed before the XII Special Magistrate at Hyderabad, as they created nuisance in public place, used filthy language and beaten with hands. The allegation of the petitioner that he was detained and threatened to vacate the subject premises and handover the possession to the 3rd respondent is specifically denied. The further allegation that after transfer of the then Assistant Commissioner of Police, the 3rd respondent again started his illegal acts and approached the 2nd respondent, who in turn, sent the staff to the subject shop and forced the petitioner to close the shop, vacate the premises and keep the keys in his custody is baseless and denied. Except registration of the above said petty case against the petitioner and his brother, the 2nd respondent never interfered with the civil disputes between the petitioner and the 3rd respondent. The 2nd respondent never summoned the petitioner to the police station except in connection with the above said petty case nor asked him to close down his pan shop and handover the same to the 3rd respondent or kept the keys with him.

Though a counter affidavit is filed by the 2nd respondent, no reply affidavit is filed to rebut the facts mentioned therein. Therefore, the facts and contentions

raised in the counter affidavit goes un-rebutted and binding on the petitioner.

In that view of the matter, this Court is of the opinion that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, shall also stand dismissed.

Date: 06.12.2019.
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P. KESHAVA RAO, J

