

THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.716 OF 2020

ORDER:

Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader appearing for respondents 1 to 3.

2. The prayer sought in the writ petition is as under:

‘For the reasons stated in the accompanying affidavit, it is prayed that the Hon’ble Court may be pleased to declare the action of the Respondents 2 and 3 herein in not considering the representation/complaint of the petitioner herein and granting license to the 5th respondent for permit room for his A4 shop for consumption of Indian Made Foreign Liquor/Foreign Liquor in respect of the premises bearing No.2-2-62/A admeasuring 513 sq. yards out of Sy.No.120/1, 2, 3, 121, 135 and 136 situated at New Vinayakanagar, Amberpet main road, Hyderabad, is being illegal, arbitrary and violation of civil court order and consequently direct to the respondents 2 and 3 herein to consider the representation/complaint duly cancelling the permit room license No. 34/2019-21 dated 13-11-2019 in respect of the premises bearing No. 2-2-62/A admeasuring 513 sq. yards out of Sy.No.120/1, 2, 3, 121, 135 and 136 situated at New Vinayakanagar, Amberpet main road, Hyderabad and pass such other order or orders may deem fit and proper in the circumstances of the case.’

3. Learned counsel appearing for the petitioner submits that the petitioner herein filed a suit in O.S.No.137 of 2017 on the file of the Court of II Additional Chief Judge, City Civil Court, Hyderabad. In the said suit, the petitioner herein filed an application in I.A.No.1380 of 2017 in I.A.No.1282 of 2017 restraining the respondents 11 and 12 therein from changing the nature of the property i.e., open plot in an extent of 513

square yards in Sy.Nos.120/1, 2, 3, 121, 135 and 136 situated at Bagh Amberpet village presently located in New Vinayak Nagar, Amberpet Main Road, Hyderabad. The said application was ordered on 27.10.2018.

4. Based on the said orders, the petitioner submitted a representation dated 22.10.2019 to the respondents 2 and 3 not to issue permission of wines, bar and restaurant and permit room in favour of any person in respect of premises bearing No.2-2-62/A situated at the above said location. However, respondents 2 and 3 without considering the said representation, issued proceedings in favour of the fifth respondent in Form A-4(B) under Rule 24 of the Excise Rules with Licence No.34/2019-21. Aggrieved by the same, the present writ petition is filed.

5. Having heard the learned counsel and from the perusal of the averments made in the affidavit filed in support of the writ petition, it is revealed that there is a restraint order from the competent Civil Court in favour of the petitioner restraining respondents 11 and 12 in the suit from alienating or changing the nature of the property. In spite of bringing the said information to the notice of respondents 2 and 3, the objections raised by the petitioner are not considered and a permit room was granted in favour of the fifth respondent by issuing Form A-(B) vide Licence No.34/2019-21 dated 13.11.2019.

6. When the petitioner is armed with an injunction in her favour and the same was brought to the notice of respondents 2 and 3, issuing licence in permitting the fifth respondent to open a permit room is against the orders passed by a competent Civil Court and without considering the objections filed by the petitioner. In these circumstances, this Court is of the opinion that a direction to respondents 2 and 3 to consider the

representation dated 22.10.2019 submitted by the petitioner and pass appropriate orders after giving a notice to the fifth respondent would meet the ends of justice.

7. Accordingly, the writ petition is disposed of directing respondents 2 and 3 to consider the representation dated 22.10.2019 submitted by the petitioner to respondents 2 and 3, after issuing notice to respondents 4 and 5 and pass appropriate orders as per law within a period of four weeks from the date of receipt of a copy of the order. Pending miscellaneous petitions, if any, shall stand closed. No order as to

Date:30.01.2020

PGS

JUSTICE P.KESHAVA RAO

