

THE HONOURABLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.16933 of 2019

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking verbatim the following relief/s:

“...to issue an order, or a direction, or a writ, more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent in issuing the notice in ROC.No.573/2011/A1, dated 22.10.2019, to the petitioners asking them to vacate their respective shop rooms bearing No.1/32 and 2/31 of Municipal shop rooms situated in front of Sivalayam temple in Proddatur town as illegal, arbitrary and unconstitutional and against the principles of the natural justice and consequently to direct the 3rd respondent to drop the further action in consequence of the said notice and to pass such other order or orders as this Hon’ble Court may deems fit just and proper in the circumstances of the case.”

I have heard the submissions of learned counsel for the petitioners; of learned Government Pleader for Municipal Administration representing the respondents 1 & 2; and, of Sri N. Ranga Reddy, learned standing counsel for Proddatur Municipality appearing for the 3rd respondent. I have perused the material record.

From the pleadings and submissions, the following facts are discernible: - ‘Admittedly the petitioner entered the subject shops as a tenant, having participated in an auction of the leasehold rights held in respect of the subject shops, in the year 2013. The lease period came to an end by 31.03.2016. The petitioners are continuing in possession of the shops and are carrying on their business. According to their submissions, they have invested lakhs of rupees on their business in the subject shop rooms. If they are now asked to vacate, they would suffer serious and irreparable loss. While so, the 3rd respondent issued a notice, dated 22.10.2019, *inter alia* stating as follows: - ‘The lease period expired by 31.03.2019. The petitioners are not entitled to continue in the shop rooms

any longer. The municipality is intending to extend the road for public purpose. In such an event, the Municipality has got right to remove the shop rooms after getting the petitioners evicted from their shop rooms. The shop rooms are causing hindrance for road extension. Therefore, they are liable to be removed. Hence, the petitioners are required to vacate the shop rooms within seven days from the date of receipt of notice and handover possession of the same to the authorities.'

Aggrieved of the said notice, the present writ petition is filed *inter alia* asserting that the petitioners, being lessees, are entitled to continue in possession till they are evicted by following the due process of law. It is also stated that in the notice no opportunity is given to offer explanation(s) and straight away the petitioners were asked to vacate the shop rooms in question and, therefore, they apprehend forceful dispossession and demolition of the shop rooms and hence the present writ petition is filed.

Learned standing counsel for the 3rd respondent would submit that the petitioners may be directed to treat the present notice as a show cause notice and that the writ petition may be disposed of directing the petitioners to give explanation(s) and that in that event the Commissioner, after conducting detailed enquiry, would pass appropriate orders.

In reply, learned counsel for the petitioners would submit that the interests of the petitioners may be protected till a decision is taken by the Commissioner.

Having regard to the facts & submissions, the Writ Petition is disposed of with the following directions.

1. Both the parties are directed to treat the impugned notice as a show cause notice.
2. The parties are at liberty to furnish their detailed explanation(s) to the said notice within two weeks from the date of receipt of a copy of this order.
3. Whether the petitioners submit(s) an explanation(s) or not within the time prescribed supra, the Commissioner, Proddatur Municipality, shall fix a date for personal hearing, by serving notice(s) on the petitioners, under proper acknowledgment(s), and then pass a reasoned order.
4. In the event an order come(s) to be passed against the interests of the petitioners, no coercive action shall be taken immediately thereafter and a reasonable time shall be provided to the petitioners to have recourse to the legal remedies, which the law permits.
5. Till the necessary exercise in the above regard is completed, both the parties are directed to maintain absolute *status quo* as on today as regards possessions of the petitioners over their respective shop rooms, which are the subject matter of the writ petition.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M. SEETHARAMA MURTI, J

06.11.2019

Note: Issue CC in two days.

B/o

Vjl

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Vjl