

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 19615 of 2002

Between:

A. Ram Mohan S/o A.R. Swamy
R/o Flat No. 2 MIG-II, Block 13, Baghlingampally,
Hyderabad

..... PETITIONER

AND

- 1 The Executive Engineer (HG)
Andhra Pradesh Housing Board, South Division, M.J Road
Hyderabad
- 2 the Deputy commissioner,
Municipal Corporation of Hyderabad, Circle-III,
Abids, Hyderabad

3. Sykam Mohan Reddy s/o S.Chandrasekhar Reddy,

28 years, Business, Plot No.9,Block 14,HIG-II,Baglingampally,Hyderabad.

Note: R-3 was impleaded as per Court orders

Dated 17-11-2003 in WPMP No.19695 of 2003.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of a Writ of Mandamus declaring the action of the first respondent ins seeking to evict the petitioner from 6' x10' tin shed Styled as "Venkatnarsaiah Tea Stall" situated near shop No. 41 Baghlingampally, Hyderabad as arbitrary and illegal and consequently direct the first respondent to allot the said land to the petitioner on payment of market value as per G.O.Ms. No. 20, Housing, Municipal Administration & Urban Development Department dated 11-6-1984 and pass such other order or orders as this Hon'ble Court deem fit and proper.

For the Petitioner: MR.S.SATYAM REDDY

For the Respondent No.1: Mr.J.Prabhakar

For the Respondent No.2: GP FOR MUNICIPAL ADMINISTRATION

For the Respondent No.3: M.N.NARASIMHA REDDY

The Court Made the Following :

ORAL ORDER

This writ petition is filed seeking writ of Mandamus to declare the action of the Andhra Pradesh Housing Board-first respondent herein, in seeking to evict the petitioner from the 6' x 10' tin shed, in which the petitioner is doing tea stall business under the name and style of "Venkatanarasaiah Tea Stall" situated near Shop No.41, Baghlingampally, Hyderabad, as arbitrary and illegal.

It is the case of petitioner that the said piece of land was allotted to the maternal uncle of the petitioner by name K.Venkatnarsaiah, on a monthly rent of Rs.25/-. Further, it is the case of petitioner that initially the petitioner was working under his maternal uncle, who is running fish stall and thereafter the same was converted into Tea stall. After the death of petitioner's maternal uncle in the year 1985, the petitioner has been running tea stall. Now, the respondents are taking steps to evict the petitioner without following due process of law.

It is submitted by the learned counsel for the petitioner that in view of the G.O.Ms.No.20, Housing, Municipal Administration & Urban Development, dated 11-06-1984, the Government has decided to dispose of the stray pieces in the Housing Board which are unobjectionable, as such; the petitioner is also entitled to continue in possession in view of the benefits conferred in the above said G.O.

Counter-affidavit is filed on behalf of the Housing Board denying any such allotment in favour of the petitioner's maternal uncle. It is further stated that the Housing Board has put shop No.41 at Bagh Lingampally to open auction on 20-09-2002 and the third respondent who is impleaded as a party-respondent, was the successful bidder, as such auction was confirmed in his favour and possession was given to him. Further, it is stated in the counter-affidavit that the petitioner has opened the tea stall in the adjoining open space unauthorizedly, and the same was never permitted by the Housing Board.

It is not in dispute that the piece of land is of A.P. Housing Board and on the apprehension that the respondents are taking steps for eviction, the petitioner has approached this Court. The very basis for the claim of the petitioner is the allotment, which alleged to have been made infavour of his maternal uncle. But, in the counter-affidavit filed on behalf of the respondents, they have denied such allotment and the petitioner also did not file any evidence, in proof of allotment, to his maternal uncle. In absence of any such allotment, the petitioner has no right to continue in possession and to question the action of the respondents in taking steps for eviction.

In that view of the matter, I do not find any merit in the writ petition for grant of relief as prayed for. The writ petition is devoid of merits and is accordingly dismissed. However, it is made clear that if any steps are to be taken against the petitioner for eviction, the same shall be done only in accordance with the procedure as contemplated under A.P. Housing Board Act.

Subject to above observation, the writ petition is disposed of. No costs.

R.SUBHASH REDDY,J

*TSNR

To

- 1 The Executive Engineer (HG)
Andhra Pradesh Housing Board, South Division, M.J Road
Hyderabad
- 2 the Deputy commissioner,
Municipal Corporation of Hyderabad, Circle-III,
Abids, Hyderabad
3. Two CCs to GP FOR MUNICIPAL ADMINISTRATION, High Court
buildings, High Court of A.P. Hyderabad(OUT)

4 Two C.D.Copies