

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
TUESDAY, THE THIRD DAY OF DECEMBER TWO THOUSAND AND NINETEEN

:PRESENT:
THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

IA No. 1 OF 2019
IN
WP NO: 26730 OF 2019

Between:

1. Visweshwara Rao Grandhe, S/o. Naga Malleshwara Rao
2. Konathala palli Nagesh, S/o. Nageshwara Rao
3. Mamilapalli Ramesh, S/o. Satyanarayana
4. Vuyyaru Ramakrishna, S/o. Appaiah
5. Balne Thandav Murali,

...Petitioners
(Petitioners in WP 26730 OF 2019
on the file of High Court)

AND

1. State of Telangana, Rep by Principal Secretary, Municipal Administration Department, Secretariat, Hyderabad-500022.
2. Gram Panchayat, Somavaram Village, Wyra Mandal , Khammam District, Telangana- 507165.
3. Commissioner, Wyra Municipality, Khammam District, Telangana - 507165
4. District Collector and Magistrate, Khammam District, Telangana- 507165.

...Respondents
(Respondents in-do-)

Counsel for the Petitioners : Sri N HARINATH
Counsel for the Respondent Nos.1 & 4: GP FOR MCPL ADMN URBAN DEV (TG)
Counsel for the Respondent NO.2 : Sri G. Narender Reddy.
Counsel for the Respondent No.3 : Sri N. Naveen Kumar.

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay the notice R.O.C F1/Shops/1010/2019 dated 27/11/2019 and subsequently direct the 3rd respondent to consider the application of the petitioners, pending disposal of WP No. 26730 of 2019, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following.(The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER:

The case of the petitioners is that they are the successful bidders in the auction conducted by the 2nd respondent – Gram Panchayat in the year 2014, for allotment of shops in the shopping complex near vegetable market, Somavaram village, Wyra Mandal, Khammam District, and they were allotted respective shop, but however, the lease deed was executed on 3.11.2017 and possession was handed over on the said date. As there were encroachments in front of the shops, even prior to the execution of lease deed, the 2nd respondent had earlier considered the issue, and passed resolution dated 10.10.2017, requiring the petitioners to pay 50% of the monthly rents till the issue with regard to encroachments, is resolved, and accordingly the said resolution was mentioned in the lease deed dated 3.11.2017. Subsequently, the 2nd respondent – Gram Panchayat is converted into Municipality. Now the grievance of the petitioners is that though the encroachments were removed on 07.11.2019, the 3rd respondent – Municipality, vide the impugned notice dated 27.11.2019 directed the petitioners to pay arrears of rent from the date of execution of lease deed on 03.11.2017.

Learned counsel for the petitioners submits that as per resolution of the 2nd respondent – Gram Panchayat, dated 10.10.2017, the petitioners are required to pay monthly rent at the rate of 50% of the rent fixed by the 2nd respondent till the encroachments are removed, and thereafter the petitioners are required to pay monthly rents as per the lease deed dated 03.11.2017, He submits that encroachments were removed only on 07.11.2019, in pursuance of the directions of this court in a writ petition filed by one of the auction purchaser, and from this date, the petitioners are required to pay full rent, but the respondent No.3 vide the impugned notice, directed the petitioners to pay entire arrears of rent from 1.11.2017 and hence the same is illegal and arbitrary.

Heard Sri G.Narender Reddy, learned Standing Counsel for 2nd respondent – Gram Panchayat and Sri N.Naveen Kumar, learned Standing Counsel for 3rd respondent – Municipality.

There is no dispute with regard to passing of the resolution dated 10.10.2017 by the 2nd respondent - Gram Panchayat, wherein it was resolved to collect 50% of the rent till the encroachments are removed. It is stated that the encroachments are removed on 07.11.2019. In these circumstances, it *prima facie* appears that the petitioners are required to pay full rent from the month of November, 2019 as per the lease deed dated 03.11.2017. However, this issue requires to be considered at the time of hearing of the writ petition. Since, the petitioners are willing to pay full rent from November, 2019 as per the lease agreement dated 03.11.2017, this court is inclined to pass interim order as under:

There shall be interim stay as prayed for, and the petitioners shall pay rents as per the lease deed dated 03.11.2017 from November, 2019, pending further orders.

//TRUE COPY//

Sd/- N.PURUSHOTHAM REDDY
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration Department, State of Telangana, Secretariat, Hyderabad-500022.
2. Gram Panchayat, Somavaram Village, Wyrva Mandal, Khammam District, Telangana- 507165.
3. Commissioner, Wyrva Municipality, Khammam District, Telangana - 507165
4. District Collector and Magistrate, Khammam District, Telangana- 507165.(1 to 4 By RPAD)
5. One CC to SRI N HARINATH, Advocate [OPUC]
6. Two CCs to GP FOR MCPL ADMN & URBAN DEV (TG), High Court at Hyderabad. [OUT]
7. One spare copy

HIGH COURT

ARR,J

DATED:03/12/2019

ORDER

**I.A.NO.1 OF 2019
IN
WP.No.26730 of 2019**

INTERIM STAY



2