



**HIGH COURT OF ANDHRA PRADESH**  
WEDNESDAY ,THE TWENTY FOURTH DAY OF MARCH  
TWO THOUSAND AND TWENTY ONE

**PRSENT**

**THE HONOURABLE SRI JUSTICE D.V.S.S.SOMAYAJULU**

**WRIT PETITION NO: 22510 OF 2020**

**Between:**

1. G SILVER SPOON RESTAURRNT AND ENTERTAINMENTS M/s G  
Silver Spoon Restaurant and Entertainments,  
Represented by its Proprietor Sri. K. Srinivasa Rao S/ o Suryanarayana  
Aged 54 yrs, Occ- Business,  
Resident of Door No.7-5-179, Sakunthala Apartments,  
Pandurangapuram, R.K. Beach, Visakhapatnam

**...PETITIONER(S)**

**AND:**

1. The State of Andhra Pradesh, Rep. By Prl. Secretary, (Municipal  
Administration and Urban Development (MAandUD) Department  
Velagapudi, Andhra Pradesh.
2. The Greater Vishakhapatnam Municipal Corporation (GVMC) Rep. by its  
Commissioner, S Jail Rd, Dwaraka Nagar, Visakhapatnam, AP 530004
3. The Assistant City Planner, Greater Vishakhapatnam Municipal  
Corporation (GVMC) Visakhapatnam, Andhra Pradesh 530004

**...RESPONDENTS**

**Counsel for the Petitioner(s): NOMOS VISTAS THE LAWYERS**

**Counsel for the Respondents: GP FOR MUNICIPAL ADMN URBAN DEV**

**The Court made the following: ORDER**



**\*HONOURBLE SRI JUSTICE D.V.S.S. SOMAYAJULU**

**+ WP.No. 22510 of 2020**

% 24.03.2021

# M/s. G.Silver Spoon Restaurant and Entertainments,  
Rep., by its Proprietor,  
Visakhapatnam.

... Petitioner

Vs.

\$ The State of Andhra Pradesh,  
Rep., by its Prl. Secretary,  
Velagapudi, Andhra Pradesh and 2 others.

... Respondents

! Counsel for the petitioner : Govardhan Venu (Nomos vistas)

! Counsel for the Respondents : Government Pleader for Municipal  
Administrative and Urban Development  
Sri S.Lakshminarayana Reddy

> Head Note:

? Cases referred:

<sup>1</sup> 2017 (5) ALD 94

<sup>2</sup> (1985) 3 SCC 545

<sup>3</sup> (1997) 3 SCC 169

<sup>4</sup> 2019 3 ALT 259

<sup>5</sup> AIR 2002 SC 2051

<sup>6</sup> 1992 Supp (2) SCC 29

<sup>7</sup> 2012 (5) SCC 370

<sup>8</sup> Manu/DE/0298/2006

<sup>9</sup> 1994 (2) SCC 594

**HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU****W.P.No.22510 of 2020****ORDER :**

**DUE PROCESS OF LAW FOR EVICTION** is an important issue that was raised in this case by the petitioner who filed this writ petition for the following relief:

“To issue an order writ particularly in the nature of Writ of Mandamus declaring that the action of the Respondents pasting slip to prevent the petitioner from operating the business of M/s G.Silver Spoon Restaurant and Entertainments land admeasuring 2256 Sq. Yds in Sy.No.1009 and nearby Door No 7-5-179 and ward No.18 of GVMC named as Amoeba Park in Beach Road, Visakhapatnam Andhra Pradesh as arbitrary, illegal and Violation of Article 21 of Constitution of India Provisions of Municipal Corporation Act, A.P.Public Premises (Eviction of unauthorized Occupants) Act, 1968 and rules framed thereunder and is liable to be declared as illegal and consequently declare that the petitioner is entitled to continue his business operations in the premises till appropriate orders are passed on the petitioners proposal for renewal or extension of the lease pending with the Respondent No.1 Government in the interest of Justice and pass any such other order...”

With the consent of both the learned counsel, the writ petition was taken up for hearing as the counter was filed by the main answering respondent namely, respondent No.2 and a rejoinder was also filed.

This Court has heard learned counsel for the petitioner and the learned standing counsel for the second respondent Municipal Corporation.



The case of the petitioner as briefly summarised by the learned counsel for the petitioner is that the petitioner was allotted a certain extent of land/premises on the Beach Road of Visakhapatnam for establishment of restaurant and other facilities. The lease was initially granted in 2010 and it was extended till 13.07.2018. After 13.07.2018, the lease was not extended and the petitioner's representation for extension of the said lease is pending with the Government. This was followed up by a number of letters and representations, but the respondent did not formally extend the lease. The petitioner was however continuing in possession and enjoyment of the premises. Due to Hud-Hud cyclone, Covid and other factors, the petitioner states that he sustained huge losses. Therefore, because of his representations and the losses which he has sustained, the petitioner claims that he must be given extension of lease. He also points out that similarly placed persons were granted extension of the lease. It is also submitted that the premises is still in possession of the petitioner and that the respondents unilaterally pasted a notice stating that the premises is under the custody of the respondents. This action of the respondents is also questioned. Learned counsel for the petitioner submits that more than 50 families of the staff are dependent on the business of the petitioner for their livelihood. It is submitted that while the respondent has the right to develop the beach road for any project, virtually no work has been started in this area for beautification or improvement of the beach road. Therefore, learned counsel argues that this is a fit



case in which the petitioner should be allowed to continue to operate food court from the premises. He also points out that the rent was also being paid regularly. The learned counsel in the alternate also submits as the “Beach Project” has not been grounded or started he should be allowed to stay in the premises till it is started atleast. Apart from this , learned counsel also argues lastly that even if eviction is to be carried out, it can also be done as per the due process of law which also includes the A.P. Public Premises (Eviction of Unauthorised Occupants) Act (for short ‘the Act’) and the Municipal Corporation Act.

In reply to this, learned standing counsel for the respondent in his usual style forcefully argues that the lease expired by efflux of time on 13.07.2018. Thereafter, on 29.09.2018, a notice was sent to vacate and handover the premises. It was also pointed out that the respondents had actually taken over the premises on 03.08.2020 itself. Learned counsel relies upon the panchanama that has been filed. Learned standing counsel also argues that the request of renewal of lease is a matter of discretion and that a writ of Mandamus cannot be issued to compel the respondents to extend the lease. It is submitted that a Division Bench of the combined High Court in a judgment reported in ***Kotha Sambasiva Rao v. State of Andhra Pradesh rep., by its Principal Secretary***<sup>1</sup> have expressly held that there is no right

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<sup>1</sup> 2017 (5) ALD 94



conferred on a lessee to seek extension and that a writ does not lie. It is also argued that the question of parity with other lessees or similarly placed tenants of the Municipal Corporation is an issue which has been answered in the said Division Bench judgment. Therefore, it is submitted that this Court is bound by the said judgment and cannot grant any relief. It is also argued that the premises has been taken over. The fact that the respondents have pasted a notice restraining the petitioner from opening the same clearly supports his contention as per the learned standing counsel. He also argues that since the premises has been taken over, the other submissions that he should be evicted under the Act etc., is not really available to the petitioner. He also points out that a notice was issued to vacate the premises and after sometime, the premises was actually taken over. The panchanama is relied upon by the learned standing counsel. The other issue about due process is therefore academic as per him.

In the rejoinder, learned counsel for the petitioner submits that the notice was not validly issued and that it is created for the purpose of this case. He also disputes the panchanama that has been filed and argues that till the disposal of his representation for extension of lease, the petitioner is entitled to continue in possession. It is also reiterated that eviction can only be under the due process of law and till the same is completed, the petitioner cannot be evicted.



The questions that therefore arise for determination in this case are:

(1) Was a notice issued to the petitioner informing him that the lease will not be extended?

(2) Was the premises actually taken over by the respondent and was any force used?

(3) Is the petitioner entitled to an extension of the lease?

(4) Is it always necessary for the respondent landlord to file another proceeding specifically for eviction of the petitioner/tenant after the expiry of the lease? What is 'Due Process'?

(1) The first question that arises was a notice issued after the expiry of the lease. The petitioner's contention is that no notice was given to him to vacate the premises.

In the counter affidavit, it is very clearly asserted that a notice was in fact issued in September, 2018. A copy of the same is also filed as a material document. The postal receipt under which the notice is posted is also filed. This has been expressly denied by the petitioner. However, the petitioner himself has filed the copy of an affidavit dated 01.12.2019 which was submitted by him to the Municipal Corporation. In that affidavit itself in paragraph 4, it is very clearly mentioned that notice dated 24.09.2018 has been issued by the Commissioner GVMC to the petitioner to demolish the restaurant and vacate the place. The notice filed by the respondent Corporation has



three or four dates - it is signed by the Commissioner on 25.09.2018, but the other signatories, who prepared the notice and sent it up for signature have initialled it on 24.09.2018. The postal receipt shows that notice was posted on 29.09.2018. Even if the slight discrepancy is overlooked, the fact remains that the affidavit given by the petitioner on 01.12.2019 itself shows that a notice was issued by the respondent. The issuance of a notice is also mentioned in the subsequent letter dated 09.12.2019 addressed by the Commissioner, GVMC to the Secretary Government of Andhra Pradesh. In another letter dated 30.11.2018 addressed by the Commissioner to the Principal Secretary, Municipal Administration (R.1), it is clearly mentioned in para 3 of page-2 that there is no provision for further extension of the lease.

These letters when read in conjunction show that the stand of the Municipal Corporation is made clear and that a notice of eviction/vacation was issued as mentioned by the petitioner himself in his affidavit. The existence/dispatch etc., of the document can also be judged from the contemporaneous correspondence. At that stage, there was no litigation between the parties nor was there any reason for the respondents to create a document. Therefore, this Court over rules the objections raised and the contentions argued about this notice and holds that a notice was in fact issued. The law is also settled that after the period of lease is over, the tenant is not entitled to any notice to vacate or to quit.





(2) As far as the taking over of the possession is concerned, the respondents state that this was done on 03.08.2020. A panchanama is filed which has the endorsements and signatures about 12 or 13 people showing that possession was taken over on 03.08.2020 at 8.00 a.m. in the morning. This taking over is denied by the petitioner. However, from the pleadings, it is clear that when the petitioner attempted to unlock the premises, he found a notice was pasted on it with the following words “It is under GVMC. Do not open. It is Crime”. It was signed by the Assistant Commissioner, who is the third respondent. In the material papers at page 70, it is said that the said document is filed, but it is not at all legible. Nevertheless, the petitioner himself stated that a slip was in fact pasted and the contents of the same are mentioned above. It is also clearly mentioned that the petitioner found the slip in place when he was attempting to unlock the same. Therefore, he disputes the taking over of the possession and states that his attempts to meet the officials or seek a clarification did not yield a result and he was very firmly told that he cannot open the premises.

An additional affidavit was filed by the respondent along with certain documents. A letter dated 03.08.2020 addressed by the petitioner is filed with this affidavit. This letter clearly reveals that the respondents have taken over the premises. In fact the petitioner states that the respondents have “seized” the premises. There is no complaint by the petitioner of the use of force or of any forceful dispossession in this



immediate/contemporaneous letter. The fact that some materials were left behind will in the facts of this case make much difference although it would have been advisable for the respondents to hand over the materials immediately. In these circumstances, this Court has to hold that the premises was actually physically taken over in the facts of this case and that there is no complaint of the use of force for this purpose.

**(3) Extension of Lease/Possession:** The next point is about the submission that the petitioner is entitled to an extension of the lease etc. As rightly submitted by the learned standing counsel, the decision of the Division Bench of the A.P.High Court which has been filed along with the counter, namely, **Kotha Sambasiva Rao's** case (1 supra) is an answer to this plea. The Division Bench clearly held that the tenant or lessee does not have a right to claim that he should be granted a lease or it should be automatically extended. A Mandamus was refused in that case. It was also clearly held that only if the petitioner has a right to seek an extension, a Mandamus can be issued. This is the settled law also. In this case, the stand of the Municipal Corporation is sufficiently spelt out. There is a notice which has been issued asking the petitioner to vacate and handover the premises. The respondent-Corporation has taken the stand that it is in fact taken over the premises by proceedings dated 03.08.2020. The stand of the respondent-Corporation has been informed to the first respondent-Secretary, Government of A.P., by stating that there is no



provision for extension of the lease; that a notice has already been issued to handover the site.

In that view of the matter, this Court holds that the petitioner who does not have a right for a Mandamus cannot seek an order. When the main relief itself cannot be granted, the petitioner cannot therefore ask for a consequential direction that he should be allowed to continue his business until appropriate orders are passed. The mere fact that a representation has been made to the Government will not clothe the petitioner with a right to seek a Mandamus.

The issue of parity/discrimination was also raised in the writ petition and the submissions were also made that a similarly situated firm (Akshara Enterprises) was granted lease upto 2042. This issue is also answered in the Division Bench judgment relied upon by the learned standing counsel. The Division Bench clearly held that unless the other parties with whom the petitioner seeks parity in treatment have been arrayed as parties, it would be inappropriate for the Court to decide on the issue of parity of treatment. The Division Bench clearly held that the question of discrimination can only be decided in the presence of the said party and if the order in favour of the said party was legal and valid and the case of the petitioner is very similar to the other party. Unless these conditions are satisfied, the question of parity of treatment or discrimination cannot be decided. Merely filing of an order of extension in favour of the third party is not enough in the opinion of this Court. As the



petitioner does not have a 'right' to seek extension, he cannot raise the issue of discrimination also.

The counsel for petitioner argued that more than 50 people are dependent on the restaurant for livelihood and that the actions of the respondents are depriving them and the petitioner of their/his livelihood. Learned counsel also highlights the fact that the petitioner has given a sworn affidavit that once the Beachfront Development Project is actually grounded the petitioner agrees to voluntarily vacate the premises. Relying on the case law cited he argues that the same is also a relevant consideration and that Article 21 of the Constitution of India also comes into play. This Court however notices that in this case as there is no complaint of force being used to take over the possession, redelivery of possession cannot be ordered more so on the ground that 50 families are dependent on the restaurant for their livelihood. Even in the landmark decision of ***Olga Tellis v. Bombay Municipal Corporation and others***<sup>2</sup>, reasonable time was given to the State to relocate/vacate the slum dwellers. In the equally well known decision of ***Annamalai Club v. Government of Tamil Nadu***<sup>3</sup> also the Hon'ble Supreme Court held in the facts of the case that reasonable notice to vacate the premises must be given. The petitioners were not allowed to continue in possession.

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<sup>2</sup> (1985) 3 SCC 545

<sup>3</sup> (1997) 3 SCC 169



The judgment cited by the learned counsel for the petitioner ***Olga Tellis*** (2 supra) was considered by a Division Bench of this Court in ***Uppalapati Venkata Satyanarayana Prabhas Raju v. The State of Telangana***<sup>4</sup>. The Division Bench held that in such cases as only the right under 300-A of the Constitution (and not a fundamental right) was infringed; the parties are not entitled to restitution as a matter of right.

**(4) DUE PROCESS OF LAW FOR EVICTION:**

The argument of the learned counsel for the petitioner is that even after the lease expired; the petitioner can only be evicted after an appropriate proceeding is filed in a Court or Tribunal and an eviction order is passed. The learned counsel for the petitioner argues that as per the settled law on the subject a lessee cannot be evicted by force after the expiry or the termination of the lease period. As per him the option for the respondent was to initiate proceedings under the AP Public Premises Act, 1968 and the rules. In his written brief he has relied upon certain case law where the proceedings were also initiated under the said act to buttress his submission that this alone is the “due process” that should be followed for eviction of the petitioner. The case law cited is a part of the record and is not in doubt. It is also settled law that no person can be deprived of his property except by the procedure/save by the authority of law. This is the mandate of Article 300-A of the

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<sup>4</sup> 2019 3 ALT 259



Constitution of India. The law on this aspect is virtually set in stone and need not be repeated. Force cannot be used by the owner/landlord etc., to take over possession. Whether it is a lease that expired, a lease that is terminated etc., the procedure is the same. Even in case of a person in settled possession the law is the same and force cannot be used to take over possession. If a person without a modicum of a right is in long settled possession of a property he cannot be thrown out by force. In case of a license also the licensor cannot use force to evict a licensee (***The Corporation of Calicut v. K. Sreenivasan***<sup>5</sup>). Both a lessee or a licensee who have been forcefully evicted can file a suit within the stipulated period under Sec 6 of the Specific Relief Act for restoration of possession. The case law which is very well settled is not repeated again. Similarly, a person in possession under a terminated /expired lease or in settled possession etc., can file a suit for an injunction and seek the protection of the Court against forceful eviction.

Hence, the questions that arise in this issue are: what is this “due process of law” for eviction?. Is it always necessary to initiate fresh legal proceedings in every case to take over possession?. According to the learned counsel for the petitioner, the answer is a resounding –Yes. As per him (as stated in the writ affidavit/the prayers/the oral and written submissions) the respondents have only one option-to file a proceeding under the

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<sup>5</sup> AIR 2002 SC 2051



AP Public Premises Act, secure an order of eviction and then take over the possession. The counsel of the respondent on the other hand says that this will amount to an extension of a expired lease and that too a forced extension. His contention (without prejudice to the taking over issue) is that by doing so the Court is giving a virtual extension of the lease of an expired lease and allowing a person to stay on when his right to enjoy/to retain possession have ceased. The long delay in disposal of cases is also a factor pointed out.

For deciding this point, the following passage from the Hon'ble Supreme Court's decision in ***East India Hotels Ltd v. Syndicate Bank***<sup>6</sup> are very relevant. This is the clear definition of due process.

30. What is meant by due course of law? Due course of law in each particular case means such an exercise of the powers by duly constituted Tribunal or Court in accordance with the procedure established by law under such safeguards for the protection of individual rights. A course of legal proceedings according to the rules and principles which have been established in our system of jurisprudence for the enforcement and protection of private rights. To give such proceedings any validity, there must thus be a Tribunal competent by its constitution, that is bylaw of its creation, to pass upon the subject-matter of the suit or proceeding; and, if that involves merely a determination of the personal liability of the defendant, it must be brought within its jurisdiction by service of process within the state, or his voluntary appearance. Due course of law implies the right of the person affected thereby to be present before the Tribunal which pronounces judgment upon the question of life, liberty or property in its most

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<sup>6</sup> 1992 Supp (2) SCC 29



comprehensive sense; to be heard, by testimony or otherwise, and to have the right of the controversy by proof, every material fact which bears on the question of fact or liability be conclusively proved or presumed against him. This is the meaning of due course of law in a comprehensive sense.

32. It is thus clear that the courts have viewed with askance any process other than strict compliance of law as valid in dispossessing a person in occupation of immovable property against his consent. The reason is obvious that it aims to preserve the efficacy of law and peace and order in the society relegating the jurisprudential perspectives to a suit under Section 5 of the Act and reconstitute possession to the person dispossessed, irrespective of the fact whether he has any title to possession or not.

This Court in view of the settled law has also to agree that force can never be used to evict a tenant/licensee or a person in settled possession. At the same time due to the laws delays more so India - can the submission of the respondents be overlooked ? The average life of a simple suit for an injunction is a few years in the trial court and then the hierarchy of appeals .If the argument of the petitioners is accepted then a fresh proceeding must be commenced ,an order or decree must be obtained and then only eviction is permissible. Laws proverbial delays however are not the concern of the tenant or the party in possession. The judgment of the Supreme Court in ***Maria Margarida Sequeria Fernandes and Ors. v. Erasmo Jack de Sequeria (Dead) through L. Rs.***<sup>7</sup> is a classic example.

In the opinion of this Court, the answer to this vexed problem is found in this case of the Delhi High Court reported in

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<sup>7</sup> 2012 (5) SCC 370





***Thomas Cook (India) Limited v. Hotel Imperial and others***<sup>8</sup>.

The Court held that the due process of law is fulfilled when a Court hears the matter and that there is no need to file a further or a fresh suit for eviction. It was also held in this case that it is immaterial whether the suit is filed for recovery of possession by the landlord or an action for an injunction against forceful dispossession by the tenant/licenses. What is important is that in either case it is an action before the Court and the Court adjudicates upon that. The learned single Judge also held that it is not necessary for the other party to again file a suit for enforcing his rights i.e for taking over the property.

A passage from the judgment is reproduced here. (para 28):

28. The expressions 'due process of law', 'due course of law' and 'recourse to law' have been interchangeably used in the decisions referred to above which say that the settled possession of even a person in unlawful possession cannot be disturbed 'forcibly' by the true owner taking law in his own hands. All these expressions, however, mean the same thing -- ejection from settled possession can only be had by recourse to a court of law. Clearly, 'due process of law' or 'due course of law', here, simply mean that a person in settled possession cannot be ejected without a court of law having adjudicated upon his rights qua the true owner.

Now, this 'due process' or 'due course' condition is satisfied the moment the rights of the parties are adjudicated upon by a court of competent jurisdiction. It does not matter who brought the action to court. It

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<sup>8</sup> Manu/DE/0298/2006



could be the owner in an action for enforcement of his right to eject the person in unlawful possession. It could be the person who is sought to be ejected, in an action preventing the owner from ejecting him. Whether the action is for enforcement of a right (recovery of possession) or protection of a right (injunction against dispossession), is not of much consequence. What is important is that in either event it is an action before the court and the court adjudicates upon it. If that is done then, the `bare minimum' requirement of `due process' or `due course' of law would stand satisfied as recourse to law would have been taken. In this context, when a party approaches a court seeking a protective remedy such as an injunction and it fails in setting up a good case, can it then say that the other party must now institute an action in a court of law for enforcing his rights i.e., for taking back something from the first party who holds it unlawfully, and, till such time, the court hearing the injunction action must grant an injunction anyway? I would think not. In any event, the `recourse to law' stipulation stands satisfied when a judicial determination is made with regard to the first party's protective action. Thus, in the present case, the plaintiff's failure to make out a case for an injunction does not mean that its consequent cessation of user of the said two rooms would have been brought about without recourse to law.”  
(emphasis supplied)

This judgment is approved by the Hon'ble Supreme Court of India in ***Maria Margarida Sequeria Fernandes's*** case (7 supra). In fact the entire passage quoted above is cited with approval by the Hon'ble Supreme Court of India in para 80. In para 79 it was held as follows:

**Due process of Law**

79. Due process of law means nobody ought to be condemned unheard. The due process of law means a person in settled possession will not be dispossessed except by due process of law. Due process means an opportunity for the Defendant to file pleadings including written statement and documents before the Court of law. It does not mean the whole trial. Due process of law



is satisfied the moment rights of the parties are adjudicated by a competent Court.

It also held in paragraph 81 that in real estate litigations, the ever escalating prices of real estate are a factor, which are encouraging unscrupulous litigants. The delay in adjudication of cases is also pointed out by the Hon'ble Supreme Court and ultimately it is held that a pragmatic approach must be taken. The delays that occur in Courts encourage tenants/occupants etc., to file a case and prolong matters after paying a pittance as rent.

If the present case is viewed against the backdrop of this judgment of the Delhi High Court as approved by the Hon'ble Supreme Court (and thus the law of the land), this Court holds that it is not necessary once again for the Municipality to initiate a separate proceeding for eviction. Since this Court had adjudicated upon the rights of the parties, the basic necessity of due process of law is satisfied. The petitioner has raised his pleas- that there is no valid notice, that possession was not taken over, that till the due process of law is followed he is entitled to continue, that as he submitted a representation to the Government he is entitled to continue, that there is discrimination between him and similarly placed others etc. A reply/counter has been filed as also a rejoinder. Both counsels were given an opportunity to argue the case, they had filed case law, written notes etc. The issues raised are being answered a by a Court of competent jurisdiction. Hence this Court holds that the due process is followed.



In line with the judgment of the learned single judge of Delhi , which has been approved by the Hon'ble Supreme Court of India, this Court holds that once an action is commenced in a Court of law ( whether it is for a mere injunction against forceful eviction or a writ to prevent forceful eviction/protection of possession or an action for recovery of possession by a tenant/person who was forcefully evicted etc.,) the due process of law is satisfied and the Courts can pass an order in that proceeding itself that the property must be vacated etc., if the Court is satisfied that the tenant/licensee/person in possession is not entitled to any relief. In the opinion of this Court, in such cases, the landlord need not initiate fresh proceedings once again seeking eviction. The order or decree that is passed refusing to aid the petitioner/plaintiff etc., is a sufficient adjudication of his rights and thus compliance with the "due process of law". The court in the very same proceeding can direct the tenant/lease holding over /person in possession etc., to vacate the premises or the property in a fixed time.

Apart from the law approved by the Honourable Supreme Court as mentioned above the power to mould the relief must also be exercised by Courts to render substantial justice ***Hindalco Industries Ltd. v. Union of India (UOI) and Ors.***<sup>9</sup> is a useful precedent for moulding the relief especially in cases of discretionary reliefs.

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<sup>9</sup> 1994 (2) SCC 594



In view of the decision of the Hon'ble Supreme Court of India in ***Maria Margarida Sequeria Fernandes*** case (7 supra), which is the latest pronouncement on the subject, this Court holds that the due process is also complied with in this case. Since the issue is raised and argued it is also answered.

It is clarified that these findings will not apply to protected tenants and to cases under the Rent Control Acts.

This Court places on record the fact that both the learned counsel have argued the matter with great passion and assisted the Court both on law and on facts.

For all the above mentioned reasons, this Court has to hold that the petitioner has not made out a case for an order.

The writ petition is therefore dismissed. No order as to costs. As a sequel, the miscellaneous petitions if any shall stand dismissed.

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D.V.S.S.SOMAYAJULU,J

Date : 24.03.2021  
Note: L.R.Copy to be marked.  
KLP