

GAHC040017292023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WA/38/2023

Smti Iter Lollen
W/o Shri Jummar Lollen, R/o Kombo village, P.O/P.S Aalo, Dist West Siang,
Arunachal pradesh.

VERSUS

The State of AP and 2 Others
represented by the Chief Secretary, Govt. of Arunachal Pradesh, Itanagar. 2:The
Deputy Commissioner
Age: 0
Occupation :

3:Shri Sangey Phutso
Age: 0
Occupation

Advocate for the Petitioner : T Mingki
Advocate for the Respondent : GA (AP)

:: BEFORE ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

O R D E R

11.03.2024.

(N. U.K. Nair, J)

Heard Mr. O. Pada, the learned counsel appearing for the
appellant. Also heard Mr. I. Riram, learned Addl. Senior Government
Advocate, State of Arunachal Pradesh representing Respondent Nos.1

and 2. Mr. D.J. Koyu, learned counsel appears for Respondent No.3.

2. The present intra-court appeal has been instituted by the appellant making a grievance with regard to the order dated 05.12.2023 passed by the learned Single Judge in WP(C) No.572(AP)/2023. The facts leading to institution of the writ petition is noticed as under–

3. The petitioner (writ appellant herein) who is the owner of a Hotel, named “M/s. Hotel Lollen Palace & Restro” had entered into a lease agreement with the present Respondent No.3 on 01.09.2020 allowing the latter to operate the said Hotel on the terms and conditions as mentioned in the lease agreement. During the period, the Respondent No.3 was operating the said Hotel in terms of the lease agreement dated 01.09.2020, certain incidents had occasioned in the said Hotel leading to registration of criminal cases involving offences under the Immoral Traffick (Prevention) Act as well as the NDPS Act against the persons operating the said Hotel. In view of the said incidents, the Deputy Commissioner, West Siang District, Aalo, Arunachal Pradesh vide the show-cause notice dated 12.10.2023, required the appellant herein to show-cause, as to why the license as allotted to the Hotel, should not be cancelled and the Hotel property be not attached and sealed.

4. The appellant herein vide her show-cause reply dated 18.10.2023, responded to the said show-cause notice dated 12.10.2023 and therein had brought on record the fact that during the time of the said incident, as alleged in the show cause-notice, had occasioned in the said Hotel, she was not in control of the said Hotel and the same was being run by the respondent no.3 in terms of a duly executed lease agreement.

However, the said reply did not find favour with the respondent authorities and the respondent authorities vide order dated 06.11.2023 proceeded to cancel the trade license as issued in favour of the appellant in respect of M/s. Hotel Lollen Palace & Restro until further orders. The said action was so taken under 18 of the *Immoral Traffick (Prevention) Act, 1956*. Being aggrieved by the order dated 06.11.2023, the appellant as petitioner had instituted the writ petition being WP(C) No.572(AP)/2023. The learned Single Judge on noticing the facts as existing in the matter, proceeded to dismiss the writ petition holding that the petitioner in view of the lease agreement, as executed with the respondent no.3 herein, was not in possession of the said Hotel and accordingly she was not in a position to maintain the said writ petition. The conclusions as reached by the learned Single Judge in the said order dated 05.12.2023 relevant for the purpose, is quoted hereinbelow:

“4. Having regard to the nature of grievances raised by the petitioner and in light of allegation made by the petitioner that hotel property was leased out to the respondent No.3, the Court is of considered opinion that unless said lease is terminated in accordance with law and petitioner lawfully becomes entitled to resume possession and charge of the said hotel, the petitioner would have no cause of action for agitating against the order of cancellation of the hotel license of the petitioner. It is the further considered opinion of the Court that the property in question is vested upon respondent No.3 to run a hotel business, therefore, during the currency of his lease, the petitioner would not have a right to maintain this writ petition for revocation of the cancellation of the said trade license.

5. Be that as it may, in the event, the petitioner becomes lawfully entitled to possession of the property in reference, it will be open to the petitioner to take such appropriate measure, as he may be so advised to obtain a fresh trade license of the said

hotel and/ or to get it renewed.”

6. Accordingly, this writ petition fails and is dismissed at the motion stage without issuance of notice on the respondents.”

5. Mr. O. Pada, learned counsel for the petitioner (appellant) has drawn our attention to a notice dated 12.10.2023 available at page 38 of the instant appeal to contend that the appellant had already cancelled the lease agreement. However, on perusal of the notice dated 12.10.2023, it is seen that what was cancelled is a Power of Attorney given by the appellant to the respondent no.3 on 18.11.2020. Accordingly, the lease agreement has not been cancelled till date.

6. The learned counsel for the respondent no.3 appearing in the matter has submitted that the lease agreement, as entered between the appellant and the respondent no.3, is subsisting as on date and has not been cancelled by either of the parties. In the above view of the matter, the conclusion as reached by the learned Single Judge does not call for any interference in the matter. Accordingly, the writ appeal stands dismissed and disposed.

7. However, dismissal of this appeal shall not act as a bar for the appellant to stake further claim before the respondent authorities for restoration and/or renewal and/or issuance of a fresh license in respect of a Hotel i.e. “M/s. Hotel Lollen Palace & Restro”, upon due cancellation of the lease agreement as entered into by her with the Respondent No.3 vide the lease agreement dated 01.09.2020.

JUDGE

JUDGE

Comparing Assistant