

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**MONDAY, THE TWELFTH DAY OF OCTOBER TWO THOUSAND AND
FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.25629 of 2015

Between:

J. Devi, W/. J. Kumar, Aged about 45 years,

Cc: Hotel Business in front of II-Choultry,

II-NC Tirumala, Chittor District.

.. Petitioner

AND

The State of Andhra Pradesh,

Rep. by its Principal Secretary

(Revenue) Endowments Department,

Secretariat Buildings,

Secretariat, Hyderabad & 4 others

.. Respondents

AND

WRIT PETITION No.33676 of 2015

Between:

N. Ramesh, S/o. Late Smt. N. Vasanthamma,

Aged about: 41 years, Occ: Unemployee,

R/o. 20-3-52/A, Erramitta,

Sivajyothi Nagar, Tirupati,

Chittoor District.

.. Petitioner

AND

Tirumala Tirupati Devasthanam,

Tirupati, Chittoor District,

Rep. by its Executive Officer & 4 others

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.25629 & 33676 of 2015

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COMMON ORDER:

These writ petitions are filed by rival claimants to commercial space in Tirumala Hills challenging the order in proceedings No.Roc.No.Rev.2/168/AEO(P&R)/TTD/TML/2008, dated 11.08.2015.

2. Heard the learned counsel for the petitioner, learned Government Pleader for Endowments for the 1st respondent, Smt. Sundari R. Pisupati,

learned Standing Counsel for respondents 2 to 4 and Sri M. Vidyasagar, learned counsel for the 5th respondent. With the consent of learned counsels, these two writ petitions are disposed of by this common order. For convenience sake, the parties are referred to as shown in the W.P.No.25629 of 2015.

3. According to the petitioner, the mother of the 5th respondent (Sri N. Ramesh) Smt. N. Vasanthamma was allotted an open space admeasuring 10 x 8 in front of Il Choultry Tirumala to carry out business vide proceedings, dated 10.11.1994. In the year 2007, she executed an unregistered sale deed in favour of the petitioner for valid consideration. Vide proceedings, dated 28.06.2007, the Estate Officer of the Tirumala Tirupati Devasthanam (4th respondent) transferred the licence in favour of the petitioner and the said licence is renewed from time to time. The Health Officer of Tirumala Tirupati Devasthanam issued proceedings according trade licence to the petitioner in the year 2009 to run Tea and Tiffin centre in the above premises. She died on 31.12.2012. While so, the impugned proceedings are issued on 11.08.2015 cancelling the licence granted to the petitioner on the ground that an objection is filed by children of late N. Vasanthamma holding that a false document is created and that no sale consideration took place and that the licence could not have been transferred in the name of the petitioner. The impugned order holds that the petitioner as well as the 5th respondent seriously contesting the entitlement for allotment of the subject space and unless the issue is resolved by a competent civil Court, no relief can be granted to either of the parties. It was also observed that as licence was not renewed after the last extension granted, the licence is not in operation and holding so, the premises was sealed.

4. Challenging the said order, the petitioner filed W.P.No.25629 of 2015 and the 5th respondent in the writ petition filed W.P.No.33676 of 2015.

5. Learned Senior Counsel for the petitioner, Sri R. Raghunandhan Rao, contends that the order impugned in the writ petition is liable to be set aside on the ground that the petitioner was not afforded opportunity of hearing by the Executive Officer, Tirumala Tirupati Devasthanam, Tirumala, Chittoor District (3rd respondent), but the hearing was

conducted by the Estate Officer, Tirumala Tirupati Devasthanam, Tirumala, Chittoor District (4th respondent) and based on the report furnished by the Estate Officer, the impugned proceedings are issued. The learned Senior Counsel contends that the authority, who is competent to pass orders alone has to hear the parties and based on the hearing conducted by him shall pass orders. In support of the said contention, learned Senior Counsel placed reliance on the decision of Supreme Court reported in ***Gullapalli Nageswara Rao and others Vs. Andhra Pradesh State Road Transport Corporation and another.***

6. He further contends that on the subject premises trade licence was validly transferred in the name of the petitioner after due consideration of the claim of the petitioner and the same could not have been cancelled on a complaint filed by the children of Late N. Vasanthamma after long lapse of time. In fact, the said persons ought to have been driven to the civil Court to obtain appropriate decree, as warranted by law and could have acted only on obtaining such decree, but could not have acted on the false representations made by them to set aside the licence already granted to the petitioner.

7. Learned Senior Counsel further contended that the renewal of the licence is automatic and it is granted as a matter of course. Many times the Tirumala Tirupati Devasthanam administration takes its own time to grant renewal of licences and in the meantime, the persons are allowed to continue to occupy the premises and carry on their business. In the instant case also, though the licence expired in the year 2011, the petitioner was not disturbed. There are several such instances of renewing licences from the retrospective date. Therefore, it cannot be said that the licence is not renewed and the licence is not in force. He is now removed from the subject premises only on the complaint of family members of Late N. Vasanthamma and the other reason is only an excuse.

8. Learned counsel for the 5th respondent contends that the Executive Officer

erred in not granting the possession of subject premises to 5th respondent having accepted the claim of the 5th respondent that there was some mistake in granting transfer of licence on a misrepresentation made by the petitioner.

9. The principle of law is well settled that an administrative authority exercising his powers derived from the statute governing his organization passes an order which necessarily requires hearing or hearing is afforded, must hear the parties on his own and cannot delegate the holding of personal hearing to any other authority.

10. Though learned Standing Counsel vehemently defended the order impugned and argued that proper procedure is followed, having regard to the serious infirmity noticed, on instructions from the Tirumala Tirupati Devasthanam and the learned senior counsel representing the petitioner and the 5th respondent have agreed for setting aside the proceedings impugned in these two writ petitions and remitting the matter for fresh consideration after giving due opportunity to rival claimants by the competent authority.

11. Having regard to the said submissions, the impugned order is set aside. A fresh enquiry shall be conducted by giving due opportunity to the rival claimants and after hearing, appropriate orders, as warranted by law, be passed. Since the order impugned is set aside, the petitioner is entitled for restoration of the possession of subject premises. He shall indicate the date of hearing in advance to the petitioner as well as the 5th respondent. The petitioner as well as the 5th respondent shall appear in person and present all the relevant material available with them. If any of the parties do not appear, it is open to the competent authority to conclude the proceedings treating them as not interested in prosecuting the matter. The entire exercise shall be completed, as expeditiously as possible, preferably within a period of four (4) weeks.

12. Accordingly, the Writ Petitions are allowed. There shall be no order

as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 12th October, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION Nos.25629 & 33676 of 2015

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Date: 12th October, 2015

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