

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.20701 OF 2010

ORDER:

This writ petition is filed seeking to issue a writ, order or direction more particularly, one in the nature of writ of *Mandamus* to declare the impugned notice in Rc.No.C1/4587/2008, dated 05.06.2010, of respondent No.3 asking the petitioner to remove the STD Telephone Booth from the temple premises and to hand over the vacant site to the temple authorities within seven days as illegal, arbitrary and contrary to the terms and conditions of licence issued by respondent No.1, dated 18.12.2003, and consequential proceedings of respondent No.3, dated 06.02.2004; and consequently, to set aside the same.

2. Case of the petitioner is that she made an application to respondent No.3 to permit her to install STD Telephone Booth between Sri Ammavari Temple and Sri Malleswari Swamy Temple on rental basis. Respondent No.3, conceding her request for installation of STD Telephone booth at Sri Durga Malleswara Swamy Devasthanam, Vijayawada, submitted a report to respondent No.1 for necessary sanction. Later, respondent No.1, has granted permission to the petitioner vide proceedings in D.Dis.No.A1/60758/2003, dated 18.12.2003, to install STD Telephone Booth at respondent No.3 - Sri Durga Malleswara Swamy Devasthanam, Vijayawada on rental basis @ Rs.500/- per month. Respondent No.3, vide proceedings in Rc.No.C1/4648/2003, dated 06.02.2004, has granted permission to the petitioner to install STD Telephone Booth in between Sri Ammavari Temple and Sri Malleswara Swamy temple with certain conditions. Respondent No.3, vide letter, dated 24.04.2004, has addressed a letter to the Assistant Engineer, Electricals, KG Market, Vijayawada

with an intimation that he has no objection for installation of STD Telephone Booth near Radha Krishna Idols at Sri Durga Malleswara Swamy Temple and for fixing up the electric meter at STD Telephone Booth. Accordingly, after obtaining necessary permission from the concerned authorities and by spending considerable amount, the petitioner installed the said Booth and since the date of installation, she has been paying the rents @ Rs.500/- per month as fixed by the authorities.

While so, respondent No.3 issued notice, dated 19.05.2010, asking the petitioner to vacate the STD Telephone Booth and to hand over the vacant site to the temple to provide facilities to the devotees since the STD Telephone Booth is causing inconvenience to the devotees. The petitioner made a request not to take any coercive action as the petitioner has no other source of livelihood except the income derived from running the STD Telephone Booth in question. Thereafter, no further action was initiated by respondent No.3 based on the said notice and accordingly, the petitioner has been running the STD Telephone Booth at the temple uninterruptedly. Again, respondent No.3 issued notice in Rc.No.C1/4587/2008, dated 05.06.2010, stating that the business licences, if any, will be allotted by way of tender-cum-public auction and the license granted for running the STD Booth expired and asked the petitioner to vacate the STD Booth. Aggrieved by the same, the present writ petition is filed.

3. Counter is filed by respondent No.2 admitting that permission was granted to the petitioner to run the STD Booth, but stated that in pursuance of Rule 2(a) and (b) of G.O.Ms.No.866 Rev (Endowments-I) Department, dated 08.08.2003 (Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Immovable Properties and Other Rights (other than agricultural lands) Leases and Licenses Rules, 2003), no lease of immovable property shall be granted for a period exceeding three years and no license shall be granted for a

period exceeding three years. Hence, the Executive Officer of the Devasthanam has issued the notice, dated 05.06.2010, with a request to vacate and hand over the vacant possession of the site to the Devasthanam within a week from the date of the notice, as the lease period of the writ petitioner expired, but the writ petitioner has failed to comply with the same. Hence, the writ petitioner is not entitled to any equitable relief under the present writ petition.

The writ petitioner was declared as highest bidder for collection of coconut pieces in the Devasthanam for the year 2004-2005, but he is in arrears for an amount of Rs.1,45,000/- to the Devasthanam and he became a defaulter for the said amount.

The Security Review Meeting with temple authorities was held on 31.07.2010. As per the minutes of the said meeting, the Inspector of Police, I Town Police Station, Vijayawada has addressed a letter to the Executive Officer of the Devasthanam in C.No.14/I Town/2010, dated 02.08.2010, narrating that the Security Audit Committee has suggested for removal of shops in front of Laddu Prasadam Counters and on the way to Sivalayam, as they observed that the shops in front of Laddu Prasadam Counters and on the way to Sivalayam area are causing lot of inconvenience to the devotees and there is every possibility for stampede in all days and in peak times. In view of the said suggestion, the Inspector of Police was requested to take immediate steps for removal of all the shops in front of Laddu Prasadam Counters and on the way to Sivalayam for the convenience and safety of pilgrims who visits the temple and hence, prayed to dismiss the writ petition.

4. Learned counsel for the petitioner stated that since proceedings, dated 18.12.2003, of respondent No.1 permitting the petitioner to run the STD Telephone Booth are not within any time limit, the petitioner can run the STD Booth forever and the respondent authorities have no

authority to ask the petitioner to vacate the said Booth since no time limit was mentioned in the said proceedings.

5. On the other hand, learned Standing Counsel appearing for respondent Nos.2 and 3 submits that in view of security reasons, the respondent authorities have taken the decision not to extend the license period, as the same is causing security threat.

6. It is to be seen that under what authority, respondent No.1 had allotted the Booth in question to the petitioner. No Rule is brought to my notice to show that the petitioner is entitled for continuation of the STD Booth. The respondents have given specific reasons for taking the decision not to continue the existing licensee. This Court and the Apex Court held that grant of licenses should be by way of public auction. In view of the same, since petitioner has not shown that she has a legal right for running STD Booth, this Court cannot issue *Mandamus* for continuance of the said Booth of the petitioner. The petitioner is running the STD Booth for last more than a decade. In view of the same, I do not see any merit in the writ petition and the same is liable to be dismissed.

7. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.RAJASHEKER REDDY

Date: 06.10.2015

AMD

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THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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