

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL No.367 of 2015

and

WRIT PETITION No.12106 of 2015

Dt:04.06.2015

Between:

The Event Manager, Maha Utsav Mela,
No.2-2-1109/11/A/6, Central Excise Colony,
New Nallakunta, Hyderabad.

... Appellant

And

L.Bharat Reddy, S/o. late Vittal Reddy,
Organizer c/o. Handloom Handicraft
Fun-fair No.8-7-51/7, Gokul Enclave,
Near Santoshi Maata Temple, Hasthinapuram,
Hyderabad and others.

... Respondents

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PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the parties.

W.A.No.367 of 2015 is against the order, dated 29.04.2015, passed on W.P.M.P.No.15971 of 2015 in W.P.No.12106 of 2015. By this order, the impugned proceedings, dated 23.01.2015, has been stayed, pending the hearing and final disposal of the writ petition.

By the proceedings, dated 23.01.2015, issued by the 4th respondent, Peoples Plaza ground at Necklace Road abutting Hussain Sagar Lake, Hyderabad (for short "the ground") was allotted to the appellant for the period from 07.05.2015 to 12.06.2015 for Rs.51,000/- per day. The 1st respondent's contention was, though his application offering Rs.1,00,000/- per day was first in point of time, the appellant's offer of Rs.51,000/- per day was accepted by the concerned authority. That being so, while disposing of the miscellaneous petition, the learned Judge in the impugned order observed thus:

"Normally, the mode of grant of lease of subject premises of Government property, as held by this Court is by way of tender-cum-public auction. But it is not known, on what basis the 3rd respondent had issued the Circular dated 20.05.2007 as there is larger scope to the authorities to misuse the same.

It was held by this Court and Apex Court that allotment of leases of public properties should be by way of tender-cum-paper public auction. In the instant case, the petitioner offered rent of Rs.1,00,000/- per day and the authorities have fixed at Rs.51,000/- per annum and on what basis, they have fixed rent at Rs.51,000/- is not known.

In view of the same, the proper mode is by way of tender-cum-public auction for allotment of places. The procedure undertaken by the authorities for the said allotment of place is against the law, as laid down by this Court and the Apex Court."

In view thereof, it appears that this Court on 21.05.2015, passed the following order:

“Considering the fact that amusement licence has been granted to the appellant (allottee) and he has already made arrangements by allotting stalls to various persons, it may not be desirable at this point of time to stall the proceedings.

However, as the writ petitioner/respondent No.1 has offered one lakh per day towards rent to Hyderabad Metropolitan Development Authority (HMDA) to avoid loss to it, we direct the appellant (allottee) to pay Rs.49,000/- (Rupees forty nine thousand only) per day over and above Rs.51,000/- (Rupees fifty one thousand only), which was already agreed and is being paid, to the credit of HMDA. The said payment is subject to result of the writ appeal.”

We are informed by learned counsel for the appellant that in view of the interim order, the appellant has been depositing additional sum of Rs.49,000/- per day with the concerned authority.

Keeping that in view and considering that hardly eight days are left to complete the period for which the ground was allotted to the appellant, we are satisfied that the order that we propose to pass will meet the ends of justice.

We propose to pass the order in view of the statement made on behalf of respondent Nos.3 and 4, on instructions, that henceforth i.e. from 13.06.2015, the concerned authority shall allot the ground only by way of tender-cum-paper public auction. His statement is recorded and accepted.

In view of the statement made on behalf of respondent Nos.3 and 4, the concerned authorities are directed to allot the ground only by way of tender-cum-paper public auction. It is open to the appellant as well as respondent No.1 to participate in the auction, if they so desire.

The appellant shall continue to be in possession of the ground only till 12.06.2015 and he shall vacate the ground before the midnight of 12.06.2015 and handover vacant possession to respondent Nos.3 and 4. If the appellant fails to vacate the ground, it would be open to the concerned authorities to remove all the shops or any other temporary structures erected by the appellant, if necessary, with the police aid. If the appellant fails to deposit additional sum of Rs.49,000/- per day, it is open to respondent Nos.3 and 4 to take appropriate action including taking possession of the ground forthwith.

With these observations, W.A No. 367 of 2015 is disposed of modifying the order passed by the learned Single Judge.

In view of this order, learned counsel for the appellant submits that W.P.No.12106 of 2015 may also be disposed of as rendered infructuous.

W.P.No.12106 of 2015 is also disposed of as infructuous.

At this stage, learned counsel for the appellant seeks two more days time to the appellant to vacate the ground voluntarily. The respondents have not objected for granting two days more time to vacate. In view thereof, on the appellant furnishing undertaking on or before 08.06.2015 that he shall vacate the ground and handover peaceful possession of the same to the concerned authority on or before the midnight of 14.06.2015, he is allowed to retain possession till then, failing which, the earlier direction shall operate.

Consequently, miscellaneous petitions, if any, in the writ appeal and the writ petition also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Dt:04.06.2015

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