

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

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT APPEAL No.302 OF 2015

DATED: 16.04.2015

Between:

P.Sunil

... Appellant

and

The State of Andhra Pradesh and others

... Respondents

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT APPEAL No.302 of 2015

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JUDGMENT: (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

This appeal is sought to be preferred and admitted against the

judgment and order of the learned Single Judge dated 20.03.2015, by which, His Lordship has been pleased to dismiss the Writ Petition.

The writ petitioner/appellant was granted lease for period of one year commencing from 01.04.2014 to 31.03.2015 pursuant to the public auction held by the third respondent for occupation and use of a piece of land admeasuring Ac.0.60 cents in Survey No.197/2 of Sri Kamakshi Sametha Sri Sadasiveswara Swamy Devasthanam. The relevant rules provide for granting lease for a maximum period of three years. Admittedly, the period of one year was over. However, after expiry of this period, the writ petitioner/appellant wanted to have an extension of the lease period. Although there has not been any specific provision for granting extension, the learned counsel for the appellant says that it could be possible following rule of equity. When the maximum period is three years, there is no difficulty for the respondent authorities to grant extension. Ignoring the writ petitioner's request for extension, the respondent authority proceeded to hold auction for leasing out the said land afresh. Actually, as reported by the learned counsel for the respondents, such auction did not fructify any result.

The learned Trial Judge noted the aforesaid legal and factual position of the writ petitioner's contentions and held that the auction proposed to be held by the third respondent could not be stalled as the writ petitioner did not challenge the auction notice. Now he is challenging entire action. To challenge the aforesaid impugned order, the present appeal has been preferred.

We are unable to persuade ourselves that the order of the learned Trial Judge is in sense interferable. The learned Trial Judge after considering the admitted fact and applying the law has come to a correct decision. Here, the question of equity does not arise as the relevant rules together with terms of the lease make it clear that the lease period will be one year, and the question of equity would arise

only when a person is affected by wrong done by the adversary and no remedy is available under law. The writ petitioner/appellant knew well that after expiry of one year, he will not have any right to remain there. Consequently he cannot perpetuate his possession for a period longer than one year, without any foundation of law. Accordingly, we are unable to accept the contention of the learned counsel for the appellant that rule of equity has to be applied in this case.

We have noted the fact that the auction is yet to be held. Therefore, it will be open for the respondents to hold fresh auction in accordance with law. It would also be open for the appellant to participate in the auction, if so advised. If in the process, he becomes successful bidder then obviously, he should be put back in possession immediately if he has been dispossessed by this time. If he has not been dispossessed then obviously, he may remain in occupation on condition of his paying occupation charges as a licensee, till fresh decision is taken by the third respondent. However, this payment will not create any right or equity so to claim possession, in case he does not succeed in the auction.

Subject to the above observations, the Writ Appeal is disposed of.

Consequently, miscellaneous petitions, if any pending, shall stand closed. No order as to costs.

K.J. SENGUPTA, CJ

16th APRIL, 2015.

SANJAY KUMAR, J

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