

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P.No.36575 of 2015

Date : 25-11-2015

Between :

Madhavarapu Vasantha Kumar and others .. Petitioners

And

The State of Andhra Pradesh,

Represented by its Principal Secretary,

Revenue (Endowments) Department,

Secretariat, Hyderabad and others .. Respondents

Counsel for petitioners : Mr. G. Tuhin Kumar

Counsel for respondent Nos.1 to 3 : Government Pleader

for Endowments (AP)

Counsel for respondent No.4 : Smt. K. Lalitha, Standing Counsel

for Temples

The Court made the following :

ORDER:

The claim of the petitioners that the leases in their favour must be continued beyond the lease periods by respondent No.4-Choultry, registered as a Charitable Institution, was unequivocally rejected by this court by its order dated 24-3-2015 in W.P.No.7199 of 2015. While holding that the said Writ Petition is without any merit, this Court has permitted the petitioners to be continued on enhanced rent of 35% on their giving an undertaking that they shall vacate the shops and handover the same to respondent No.4-Choultry to enable the successful bidders to occupy the said shops after finalization of the tenders. Alleging that though the tender process was completed, the successful bidders have not taken possession of the shops as per the allotment, the petitioners have filed the present Writ Petition seeking a mandamus to declare the inaction of the respondents in extending the leases of the respective shops in their occupation by enhancing the rents, as illegal and arbitrary.

Respondent Nos.3 and 4 have filed counter affidavits. In the detailed counter affidavit filed by the Executive Officer of respondent No.4-Choultry, he has inter alia stated at para-12 as under :

“In reply to the averments made at para 10 of the affidavit, it is humbly submitted that it is false on the part of the petitioners to contend that the successful bidders have taken back the bid

amounts from the 4th respondent and not occupied the shops. In fact, the amounts paid by the highest bidders are lying with the choultry as on today. As the petitioners have failed to vacate the shops and handover the same to the 4th respondent as per the direction of this Hon'ble Court, the same could not be delivered to the highest bidders and choultry is facing lot of financial loss and pressure from the highest bidder for possession of the shops or to return the amount as an amount of Rs.22 lakhs is lying with the choultry from the last six months and petitioner cannot take any advantage out of the same and seek indulgence of this Hon'ble Court when the writ petitioner are responsible for this situation. The Executive Officer of the choultry has even informed all the existing shop holders that the choultry was preferred a contempt case inspite of the same, they have not vacated shop and inturn came up with the above writ petition which shows that the petitioner is taking the process of the court granted and instituting litigation one of the other. In fact in the CC filed by the choultry petitioners 2 and 22 are served and 5 returned unserved and others are yet to be served.”

The petitioners have filed a reply affidavit denying the above averments.

In my opinion, a small leverage given by this Court in the previous Writ Petition is sought to be used by the petitioners to their undue advantage by coming out with a specious plea that the highest bidders have not paid the amounts. Indeed, the order in the previous Writ Petition cannot be treated as a decree in favour of the petitioners conferring them with the right to cling to the possession of the shops despite expiry of the lease periods by raising a jejune ground that the highest bidders have not paid the lease amounts. In strict sense, the petitioners are not concerned whether the highest bidders have paid the bid amounts or not. Once the auction is held and fresh leases are proposed to be granted, the petitioners are bound to vacate the premises in their occupation. Therefore, I do not find any merit in this Writ Petition.

The Writ Petition is accordingly dismissed, with the direction to

the petitioners to handover the vacant possession of the shops in their occupation within two weeks from today, failing which, respondent No.4 shall prosecute the petitioners under Section 86 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987.

As a sequel to the dismissal of the Writ Petition, WPMP No.47112 of 2015 filed for interim relief is dismissed as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 25-11-2015

AM

