

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.17088 of 2011

Date: 28-07-2015

Between:

Vegi Satyavathi

.... Petitioner

AND

Mandal Parishad Development Officer,
Mandal Parishad, Narsipatnam

.... Respondent

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.17088 of 2011

ORDER:

This writ petition is filed for a *Mandamus* declaring the action of the respondent in not allotting Shop No.29 in Narsipatnam Mandal Parishad Market, Narsipatnam as illegal and arbitrary and for a consequential direction to the respondent to allot one shop in the said market.

2. The case of the petitioner is that she is running vegetable business since 20 years at Shop No.29, Narsipatnam Indira Market, Mandal Parishad Market, Narsipatnam and she was allotted the said shop from 06-01-2006 to 31-03-2007 to run vegetable business vide proceedings in Rc.No.371/2005/B, dated 06-01-2006 on a monthly rent at Rs.300/- and she has been paying the same regularly to the respondent. Even subsequent to the lease period, the petitioner is running the same business in the said shop as on today. There are 60 shops earmarked for allotment to various people and offer applications by the

respondent, for which the petitioner applied for grant of shop to her. The petitioner stated that she constructed temporary sheds and that she also applied and approached the respondent to allot shop No.29, but of no avail and when she approached the respondent, they promised to allot the same to her, but the same was allotted to some other person. Aggrieved by the same, the present writ petition is filed.

3. The 1st respondent filed its counter stating that Shop No.29 of Indira Market at Narsipatnam was never allotted to the petitioner and no such proceedings are filed to show that Shop No.29 was allotted to her. The proceedings of the 1st respondent is only allotting the land to permit the petitioner to run her business in the open land available at Indira Market premises in an extent of 9 X 9 on rental basis per month at Rs.300/- vide proceedings No.Rc.No.341/2005/B, dated 06-01-2006 and the said land was leased out to her only for 15 months i.e. from 06-01-2006 to 31-03-2007. It is also stated that Shop No.29 of Indira Market of Narsipatnam was allotted to one Silparasetty Nookaraju vide proceedings Rc.No.4/2008/Sup, dated 31-05-2011 by following procedure adopted by the Mandal Praja Parishad, Narsipatnam and in view of illegal occupation of the petitioner, the respondent is not yet given possession of the said shop to him and that the tin shed erected by the petitioner in the land which was allotted to her in the year 2006 is still in the possession of the petitioner and carrying out the eggs business in the said place. It is also stated that the construction of shopping complex in the Indira Market is in pursuance of the resolution passed by the Mandal Praja Parishad and the allotment of shops were also made according to the resolution passed by the Parishad only and there are no deviations or illegality in allotment of shops to the beneficiaries and hence,

sought for dismissal of the writ petition.

4. The 2nd respondent, who is impleaded as 2nd respondent, also filed his counter stating that he was allotted Shop No.29 in the newly constructed Mandal Parishad Market Yard, Narsipatnam by proceedings of the 1st respondent bearing Rc.No.4/2008/SP, dated 31-05-2011 on payment of monthly rent of Rs.500/- from 01-06-2011 to 31-05-2014 and in pursuance of such proceedings, he took possession of the said shop and has been carrying on vegetable business by paying agreed rents regularly to the 1st respondent. The 2nd respondent reiterated the contents of the counter of the 1st respondent.

5. Heard the learned counsel for the petitioner, Sri Ravi Cheemalapati, learned standing counsel for the 1st respondent and Sri M.S.R. Subramanyam, learned counsel for the 2nd respondent.

6. Learned counsel for the petitioner submits that the proceedings dated 06-01-2006 do not show Shop No.29 because at the time of issuance of such proceedings, Shop No.29 was not constructed and later the same was constructed and that the 1st respondent promised the petitioner to allot such shop, but without considering her request, the same was allotted to the 2nd respondent. He also contends that as the petitioner is poor lady eking out her livelihood by doing vegetable business in the land allotted to her by the 1st respondent, she has to be allotted Shop No.29.

7. A perusal of the proceedings in Rc.No.371/2005, dated 06-01-2006 issued by the 1st respondent do not show about allotment of shop No.29 to the petitioner and except such proceedings, no other document has been filed to show that she was given

assurance for allotment of Shop No.29 to her. It is not known as to how and on what basis Shop No.29 was allotted to the petitioner. Even the so-called lease of the land expired in the year 2011. The 1st respondent categorically stated that Shop No.29 was never allotted to the petitioner and the same was allotted to the 2nd respondent vide proceedings in Rc.No.4/2008/SP, dated 31-05-2011 and the said shop could not be handed over to the 2nd respondent due to the illegal occupation of the same by the petitioner. Even the petitioner has not chosen to challenge the proceedings under which the 2nd respondent was allotted shop No.29.

8. In view of above facts and circumstances of the case, when the petitioner has not challenged the proceedings dated 31-05-2011 under which the 2nd respondent was allotted shop No.29, the question of allotment of such shop to the petitioner does not arise and the petitioner has not any enforceable legal right for issuance of writ of mandamus by invoking the jurisdiction under Article 226 of the Constitution of India to direct the 1st respondent for allotment of Shop No.29 to her, and hence, the writ petition is devoid of merit and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A. RAJASHEKER REDDY, J

Date: 28-07-2015

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