

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

WPMP.No.38009 of 2015
in/& Writ Petition No.31952 of 2011

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Dated 08.10.2015
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Between:

M/s.Suddalagunta Hotels Ltd.,
Tirupathi, rep. by its Director
S.Jayaram Chowdary and another

... Petitioners

and

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Andhra Pradesh Tourism Development
Corporation Ltd., Hyderabad, rep.
by Vice-Chairman & Managing Director
and another

...Respondents

Counsel for the petitioner: Mr.M.P.Chandramouli

Counsel for the respondents: Mr.A.K.Narasimha Rao

The Court made the following:

Common Order :

This Writ Petition is filed for a Mandamus to declare the inaction of respondent No.1 in proceeding further in pursuance of Letter of Intent (LoI), dated 17-04-2011, as illegal and void. The

petitioners sought for a consequential relief of declaration that the action of respondent No.1 in publishing the notification in Telugu daily, dated 18-08-2011, is illegal and arbitrary.

In the manner, this Writ Petition is proposed to be disposed of, it is unnecessary to refer to the facts in detail. However, it will suffice to note that on respondent No.1 inviting tenders for establishment of a three star hotel, petitioner No.1 has filed its tender, which was accepted by the former, and an Lol, dated 17.04.2011, was issued in favour of petitioner No.1. It is also not in dispute that petitioner No.1 has deposited a sum of Rs.35,90,248/- in order to comply with the conditions stipulated by respondent No.1 and the said amount is retained by respondent No.1 for various reasons, reference to which is unnecessary.

The Lol has become inoperative and respondent No.1 appeared to have decided to construct the hotel by itself. In view of these subsequent events, the petitioners have filed WPMP.No.38009 of 2015 seeking amendment of the prayer in the Writ Petition by adding the relief of a consequential direction to the respondents to refund the sum of

Rs.59,37,333/- including the amount spent for development of the site together with interest @ 18% p.a., with effect from 21-04-2004.

A counter-affidavit is filed by the Executive Director (Projects) of respondent No.1 whereunder he has admitted the deposit of Rs.35,90,248/- by the petitioners. He has, however, disputed the liability of respondent No.1 to pay the sum of Rs.23,47,085/- towards the expenditure allegedly incurred by the petitioner for developing the site and also the interest thereon.

Inasmuch as petitioner No.1 has confined its relief only to the amended prayer, it is unnecessary for this Court to deal with the original prayer. As regards the amended prayer, the respondents have not disputed their liability to refund the deposit amount of Rs.35,90,248/-. As regards interest, admittedly, there was no agreement for payment of the same between the parties. However, the issue, whether the interest is liable to be paid by the respondents in equity, is left to be agitated by the petitioners before the competent civil Court. Similarly, the claim for payment of Rs.23,47,085/-

made by the petitioners cannot be adjudicated in this Writ Petition as the respondents have seriously disputed the said claim. However, if the petitioners have spent the said amount towards development of site and other lawful purposes in pursuance of Lol, dated 17.04.2011, the respondents are liable to refund the same. Unless the petitioners make a specific claim before respondent No.1 in this regard and a decision is taken by the said respondent after considering the claim of the petitioners, the entitlement or otherwise of the petitioners for payment of the said sum cannot be decided.

In the light of the above, WPMP.No.38009 of 2015 is allowed and W.P.No.31952 of 2011 is disposed of in the following terms:

1. Respondent No.1 shall refund the sum of Rs.35,90,248/- to the petitioners within six weeks from the date of receipt of this order;
2. The petitioners are permitted to avail appropriate remedy before the competent civil Court for interest on the sum of Rs.35,90,248/-;
3. The petitioners are permitted to make a representation to respondent No.1 for reimbursement of the sum of Rs.23,47,085/-;
4. Respondent No.1 shall consider the

same along with the evidence, if any produced by the petitioners in support of their claim, take appropriate decision thereon and communicate the same to the petitioners within one month from the date of receipt of such representation from the petitioners; and

5. If the petitioners feel aggrieved by the decision that may be taken by respondent No.1, they shall be free to approach competent civil court by availing appropriate remedy in accordance with law.

As a sequel to disposal of the Writ Petition, WPMP.Nos.39653 of 2011 and 24340 of 2013, filed by the petitioners for interim relief, are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 8th October, 2015
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