

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.29917 OF 2015

DATED:4-11-2015

Between:

N. Veera Kumar ... Petitioner

And

The State of Andhra Pradesh,

Rep. by its Principal Secretary

Municipal Administration & Urban Development Department

Secretariat

Hyderabad

and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. T.S. Venkata Ramana

COUNSEL FOR RESPONDENT NO.1: G.P. for Endowments (AP)

COUNSEL FOR RESPONDENT NOS.2 & 3: Mr. T. Balaswamy

THE COURT MADE THE FOLLOWING:

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ORDER:

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This writ petition is filed for a mandamus to declare the action of respondent No.2 and 3 in not completing the construction and electrical fittings in the premises of Shadhikhana, Hanumantharai Chepala Market, Kothapet, Vijayawada, as illegal and arbitrary.

I have heard Mr. T.S. Venkata Ramana, learned counsel for the petitioner, and Mr. T. Balaswamy, learned Standing Counsel for respondent No.2.

The petitioner was granted lease of the Shadhikhana in the year 2003 on certain conditions and the lease was being renewed from time to time. By Resolution No.1550, dt.20.12.2013, the lease was renewed for a further period of three years, i.e., from 13.6.2013 to 12.6.2016 on a lease amount of Rs.4,91,340/- per year. Thereafter, a notice in Rc.No.4-100904/09, dt.28.12.2013, was sent on behalf of the Commissioner of respondent No.2 whereunder the petitioner was called upon to deposit a sum of Rs.4,91,340/- within seven days and enter into a lease deed and get the same registered within the above mentioned period. A further condition was stipulated that the lease will be continued upto 12.6.2016.

The grievance of the petitioner is that having issued the above mentioned notice, respondent Nos.2 and 3 have neither received the lease amount nor carried out certain repairs which were essential for running of the Shadhikhana.

This Court by order dt.15.9.2015 called for a report from respondent No.2 along with photographs and stage of various activities taken up and the compatibility of the function hall for utilization to perform marriage functions. Though the report has not been filed, learned Standing Counsel for respondent No.2 has offered to place the same before this Court. As the report has not been filed, this Court has declined to see the same. However, the learned Standing Counsel has read out the contents of the report at the hearing, a reference to which may not be necessary in the manner this Court is proposing to dispose of the writ petition.

As per the petitioner's own pleadings, in pursuance of the Standing Committee Resolution dt.20.12.2013, a notice was issued by the respondents on 28.12.2013 calling upon the petitioner to deposit the lease amount of Rs.4,91,340/- for the first year lease, within seven days of receipt of the said notice. Admittedly the petitioner has not deposited the amount. He has taken the plea that the respondents have not received the same. This plea is not supported by any material whatsoever. On the contrary, almost one year after receipt of the said notice, the petitioner has submitted a representation dt.23.12.2014 wherein several grievances have been expressed regarding appalling condition of the building. Nowhere in the representation the petitioner has stated that he was prepared to pay the lease amount and that the respondents have not received the same. If the petitioner has any bona fides, he ought to have responded to notice dt.28.12.2013 within a reasonable time by requesting respondent Nos.2 and 3 to redress his grievances relating to the

condition of the Shadikhana. These facts would clearly show that the petitioner was not prepared to deposit the rent till such time as the repairs were not completed. As per the Standing Committee Resolution dt.20.12.2013 the lease period is coming to an end by 12.6.2016. Till now, no payment has been made by the petitioner towards the lease amount. Under these circumstances, the petitioner is not entitled to issue of mandamus against respondent No.2 and 3 for effecting repairs to the Shadikhana and fixing the lease period from the date of giving possession. Respondent Nos.2 and 3 are, however, directed to take steps for auctioning the leasehold rights of the Shadikhana after effecting necessary repairs within three months from the date of receipt of this order. As and when the Auction Notification is issued, the petitioner shall be free to submit his bid for a fresh lease.

Subject to the above directions, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. No.38746 of 2015 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

04-11-2015

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