HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7588 OF 2011

ORDER

The writ petition is filed seeking a writ of Certiorari questioning the notice dated 08.02.2011 directing the petitioner to vacate the vacant land admeasuring about 19' feet x 12'.9 feet situated in T.S.No.411, Trunk Road, Ongole Town.

It is the case of the petitioner that on 10.04.2004, the 4th respondent-temple had invited the applications for leasing out the vacant site admeasuring about 19' feet x 12'.9 feet situated in T.S.No.411, Trunk Road, Ongole Town and the petitioner had participated by paying the requisite fee and as he has offered Rs.11,600/- for the period from 1.7.2006 to 30.6.2009, petitioner was declared as a successful bidder. As a matter of fact, the petitioner's bid was at Rs.11,600/- though on earlier occasion up to 2004, Rs.4,000/- was a rent fetched for the said premises. Though the petitioner was declared as a successful bidder and the auction was conducted for the leased premises for a period of five years, petitioner was granted only three years lease by the Commissioner and then on 30.05.2007 petitioner was asked to vacate the premises. Thereafter, the petitioner challenged the same by filing a W.P.No.13997 of 2007 and this Court initially ordered status quo for limited period and the petitioner continued for five years of lease period. Subsequently in July, 2009, when the temple has passed order as the lease period got completed and the petitioner sought extension of the lease on payment of market value for another ten years. It is stated that the petitioner spent a sum of Rs.10.00 lakhs for making constructions in the site. In that view of the matter, the action of the respondents in not considering the request of the petitioner to extend the lease period for another period of ten more years, seeking to put to auction of the site is arbitrary illegal.

As a matter of fact, similar properties were leased out by the respondents for a paltry sum of Rs.200/- per month where as the petitioner is paying a sum of Rs.11,600/- per month till 2004, though earlier the said property was fetching only Rs.4,600/- per month.

The 4th respondent filed a counter-affidavit. So far as granting of the lease in favour of the petitioner for five years is admitted and it is the contention of the 4th respondent that in terms of Rules framed under G.O.Ms.No.866 dated 8.8.2003, all leases or licenses shall be made by way of public auction. At any rate, initial lease granted in favour of the petitioner was over, the petitioner has no right to continue in the premises in question. So far as the construction alleged to have been made by the petitioner in the premises in question, in the very notification issued by the temple on 10.4.2004, one of the stipulation is that any constructions made shall be made over to the temple and the petitioner having agreed for the said condition participated in the auction and he is bound by the same. Petitioner had enjoyed the lease period for five years from 2004 to 2009 and it is only by virtue of the interim orders granted by this court, petitioner continued in the premises till today. As of date in open market the premises would fetch an amount of Rs.30,000/- per month and he has no right to continue further.

Having considered the respective submissions and once it is admitted and undisputed that original lease granted in favour of the petitioner in 2004 expired by 2009, there is no legal right in the petitioner continuing in the leased premises. Further allowing the petitioner to continue on negotiated terms would only be in violation of the rules framed under the G.O.Ms.No.866 dated 8.8.2003. In that view of the matter, no *Mandamus* can be issued directing the violation of rules. I see no merits in the writ petition. However, considering the fact that the petitioner is carrying on business in the leased premises, two months time is granted to the petitioner for vacating the leased premises. In the meanwhile, the respondent-authorities shall be at liberty to proceed with for conducting the auction to lease out the premises in question, in accordance with rules.

With the above observations, the writ petition is disposed of. No order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

Date:21.11.2016,
Gk.

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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Gk