

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.11029 of 2016

ORDER:

The writ petitioner is a company registered under the Companies Act and is a shareholder in the 3rd respondent company. It is the case of the writ petitioner that 3rd respondent entered into a Development and Management Agreement, dated 09.05.2007 with the 1st respondent State for construction and maintenance of a five star hotel. Under the Development and Management Agreement petitioner has certain rights. At the instance of the 3rd respondent the notice dated 30.03.2016 was issued to the petitioner providing only 24 hours time. Giving of 24 hours notice for offering explanation is totally arbitrary and unreasonable. It is the contention of the petitioner that the petitioner is in management of hotel being a technical member and holds 16% of the share capital in third respondent company and the petitioner is ready and willing to offer the explanation to the respondents if sufficient time is granted. By orders of this Court in W.P.M.P.No.15798 of 2016, 3rd respondent came to be impleaded.

It is the contention of the 3rd respondent-Golden Jubilee Hotels Pvt. Ltd., that the 3rd respondent owes huge monies to the financial institutions and the petitioner has failed to keep up its obligations and failed to perform its obligations under the agreement entered into between the petitioner and the 3rd respondent. Petitioner by approaching this court and obtaining stay has been causing huge loss to the 3rd respondent by not allowing it from discharging its contractual obligation under the Development and Management Agreement.

Heard Sri S. Ravi, learned counsel for the petitioner, Sri Vedula Venkata Ramana, learned counsel for the 3rd respondent and Sri A. Sanjay Kumar, learned counsel for the respondents 1 and 2.

It is the submission of the learned counsel for the respondents 1 and 2 that though the notice dated 30.03.2016 provided for 24 hours time to the

petitioner to submit his explanation, as a matter of fact, petitioner did not submit any explanation and in the process had gain time by approaching this Court and obtain stay. Though, the petitioner had ample time to file explanation, he did not chose to do so and he has not filed the explanation even as on date and hence there are no *bonafides* in the writ petition. Further, it is the intention of the petitioner to drag on the proceedings.

The learned counsel appearing for the 3rd respondent made elaborate submissions particularly with respect to the prejudice that is being caused to his client on account of the petitioner not fulfilling its commitment under the agreement entered into between the petitioner and the 3rd respondent. Learned counsel also submits that the petitioner has no locus standi to question the impugned letter and there are no bonafides in the writ petition.

Considered the respective submissions. It may be noted for the purpose of disposal of this writ petition to the extent necessary, facts are not in dispute. The sole question before this court is the reasonableness of time allowed to the petitioner to offer explanation. From the brief narration of the facts it is clear that there are dispute between the parties and there are also other proceedings pending in civil courts. There are claims and counter claims between the parties. In that view of the matter, considering the relationship between the parties i.e., between the petitioner, the 1st respondent and the 3rd respondent, this court refrains to refer any of the elaborate contentions, claims and counter claims of the respective counsel. Issuance of 24 hours notice for resubmitting the explanation can by no such imagination can be said to be reasonable, particularly in cases of this nature.

In those circumstances, without expressing any opinion with respect to any of the contentions raised by both the parties the Notice dated 30.03.2016 is set aside solely on the ground that the same having been issued without providing adequate time to offer explanation. It is also made clear that the setting aside of this notice shall not be construed as either allowing or preventing the respondents to proceed further in the matter.

In the circumstances the notice dated 30.03.2016 is set aside to the

extent of allowing 24 hours time to the petitioner to submit its explanation.

Accordingly the writ petition is disposed of. There shall be no order as to costs. Consequently, miscellaneous petitions pending, if any, shall also stand dismissed.

CHALLA KODANDA RAM, J.

Date:28.04.2016

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