

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.36102 OF 2016

ORDER:

The petitioners pray for the following relief:

“.. writ of mandamus, declaring the action of the respondents in taking steps to evict the petitioners from their respective shops even without giving notice and opportunity and without following the due process of law, as, arbitrary, illegal, malafide, discriminatory violating principles of natural justice and violating Articles 14, 16 [19 [1] [g] and 21 of the Constitution of India, and issue consequential directions, directing the respondents not to disturb the petitioners from their shops in Rythu Bazar Saroornagar, Gaddainaram, RR District..”

Respondents 1 and 2 filed counter affidavit and also petition to vacate the interim order dated 25.10.2016. The operative portion of the counter reads thus:

“The averments of para 3 of the Writ Affidavit are false and are hence denied . The Rythu Bazar is meant for the farmers who are growing vegetables to sell their produce to consumers directly and to get maximum profits. The Rythu Bazaar is also utilized by self help groups to sell the permitted vegetables and for running other provision stalls for selling commodities which were not grown locally and not brought by the local farmers. It is submitted that petitioner is illegally occupying the parking place and selling the items without proper allocation by the concerned authorities and they are also not following the rules and instructions issued by the concerned estate officer. Petitioner is also causing a lot of inconvenience to the parking of the vehicles in the Rythu Bazaar. It is further submitted that the respondents have constructed sheds and are seeking to allot these sheds in a

transparent manner through draw system. As such the 1st respondent issued notice Lr.No.AMCG/RBZ/Saroorngar/2016-17 dated 02.08.2016 and conducted the auction on 10.08.2016 following the draw system, out of 24 applicants 12 applicants have participated in the draw system and were allotted sheds as per the norms. However, the petitioner along with others has deliberately not participated in the said auction.

In reply to para 4 of the affidavit, it is submitted that generally the allotment of shops in the rythu bazaars to people other than farmers is only for a period of 2 years and after the said period their allotments are to be cancelled and fresh allotments are to be given and rent has to be enhanced for every 2 years. The Rythu Bazaars are running with their own income generated from the rents of shops, parking rents etc, to meet expenditure such as electricity water, garbage cleaning and wages to the supporting staff, etc. It is pertinent to note that the petitioner has not been paying rents for several years. As such the petitioner lacks any bonafides to file the instant Writ Petition. After erecting the sheds nominal charges have been collected till the final allocation of the sheds through draw system to ensure transparency. After allotting 12 sheds to the applicants through draw system, there are about 12 more sheds which are kept idle for the remaining applicants if they participate in the auction and the same can be allotted to them in a transparent manner. The authorities of Rythu Bazaar have not shown any favour or bias to any applicant and all of the applicants are treated as equal.”

In view of the above reply, the writ petition is disposed of by appropriately moulding the relief.

- a) The petitioners are given liberty to apply for allotment of shops and the same will be considered as was done in the

case of 12 shops already allotted. The petitioners are further directed to file undertaking before respondent No.2 to vacate the place presently in their occupation and agree to deliver possession with the allotment of shops by respondents 1 and 2. After vacation of petitioners, the respondents shall further ensure that the place i.e. parking area now occupied by the petitioners is used for parking, and under no circumstances the encroachment or allotment of parking area shall be allowed.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions pending if any shall stand closed.

Date:14.11.2016
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S. V. BHATT, J