

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.26978 of 2017

ORDER:

Heard learned counsel for the petitioner and Smt. K. Lalitha, learned Standing counsel, for the 2nd respondent Temple.

An order, dated 19.06.2017, passed by the A.P. Endowments Tribunal, Amaravathi, Pedakakani, Guntur District, in O.A.No.841 of 2011 filed by respondent Nos.2 and 3 herein under Section 83 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, is under challenge in the present writ petition.

The subject property is a shop bearing D.No.12-1-45 situated at Jawahar Street, Suryaraopet, Kakinada, East Godavari District, belonging to the 2nd respondent Temple. Initially, in the year 2005, lease was granted in favour of the petitioner for a period of three years and the said period came to an end on 15.09.2008. It is the case of the petitioner that during the existence of the said lease, in the year 2006, widening of the roads in Kakinada Municipal Corporation took place and in that process the shop let out by the 2nd respondent to him was dismantled. On 15.07.2007, the petitioner made a representation to the respondent Temple authorities to permit him to construct a shop in the land belonging to the 2nd respondent with his money and to continue in the said premises on lease basis payable to the

2nd respondent. It is further submitted that in response to the same, the respondent authorities permitted the petitioner to construct a shop and accordingly the petitioner constructed the same and carrying on the business. Subsequently, on 18.03.2009, the Commissioner of Endowments extended the lease from the year 2008 to 2011 and thereafter the respondents did not extend the lease in favour of the petitioner. As the petitioner is continuing without any valid lease, the respondent Temple authorities moved the Tribunal by filing O.A.No.841 of 2011. The Tribunal by way of an order, dated 19.06.2017, ordered eviction of the petitioner from the subject premises obviously on the ground of lack of valid lease in his favour.

It is submitted by the learned counsel for the petitioner that in view of the investments made by the petitioner, during the process of construction of the shop after demolition, the respondents ought to have continued the lease of the petitioner for a further period.

On the other hand, it is submitted by the learned Standing counsel that only after taking into consideration the said aspect, the respondent authorities extended the lease till 2011 and the said period also came to an end. It is further submitted that as per the A.P. Charitable and Hindu Religious Institutions and Endowments Immovable Properties and other Rights (Other than Agricultural Lands) Leases and Licences Rules, 2003, notified vide G.O.Ms.No.866, Revenue

(Endowments-I) Department, dated 08.08.2003, all the properties of the temple shall be leased out by public auction and the petitioner cannot occupy the property for years together without there being any valid lease in his favour. In fact, the Tribunal, after taking into consideration all these aspects, passed the order under challenge, ordering eviction of the petitioner from the subject premises by granting one month time.

Admittedly, in the present writ petition, there is no valid lease in favour of the petitioner. It is also required to be noted that in the representation, dated 15.07.2016, the petitioner categorically stated that he would not claim any right on the construction and he will pay the rentals also as fixed by the Temple authorities. It is a settled and well established proposition of law that a writ in the nature of writ of Certiorari can be issued only in the cases where there is jurisdictional error or perversity in the orders. In the impugned order, this Court does not find any such perversity and in the absence of the same, this Court is not inclined to meddle with the order, dated 19.06.2017, passed by the Tribunal in O.A.No.841 of 2011.

For the aforesaid reasons, the writ petition is dismissed. However, having regard to the facts and circumstances of the case, this Court deems it appropriate to grant four months' time from today to the petitioner to vacate the subject

premises and handover the vacant possession to the respondent Temple authorities.

Miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

A.V.SESHA SAI, J

Date: 11.09.2017
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