

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

W.P.No.30715 of 2017

ORDER:

Heard learned counsel for the petitioners and Smt.K.Lalitha, learned Standing counsel for 3rd respondent-temple.

2. In response to the notification issued by the 3rd respondent-temple on 30.05.2016 for auctioning license rights in respect of the shops in 5th floor of Maha Mandapam, for a period of three years commencing from 15.06.2016 to 14.06.2019, the petitioners offered their tenders and emerged as successful licensees. Subsequently, vide letter dated 14.06.2016, the 3rd respondent allotted the respective shops to the petitioners herein.

3. Earlier vide letter dated 13.04.2017, when the 3rd respondent directed the petitioners herein to handover the shops in the name of undertaking developmental activities, petitioners herein filed W.P.No.14284 of 2017 before this Court questioning the said proceedings dated 13.04.2017. In the said writ petition, this Court on 25.04.2017 in WPMP.No.17700 of 2017 granted interim suspension as prayed for.

4. Subsequently, alleging that the respondent temple authorities closed the way of the petitioners' shops and kept the locks, petitioners herein filed W.P.No.21638 of 2017 before this Court and the said writ petition is pending consideration before this court.

5. Now by virtue of the order under challenge, the Executive Officer of the 3rd respondent temple made a request to the petitioners herein to vacate the shops during the Dussehra celebrations. According to the learned counsel for the petitioners, the said action on the part of the 3rd respondent is illegal, arbitrary and violative of Article 14 of Constitution of India and an attempt to circumvent the orders passed by this Court in WPMP.No.17700 of 2017 in W.P.No.14284 of 2017.

6. It is further submitted by the learned counsel that because of the impugned action, the petitioner herein, will have to sustain irreparable loss and hardship, having invested the huge sums of money for their respective trades.

7. On the contrary, it is contended by the learned Standing counsel for the 3rd respondent temple that there is absolutely no illegality nor there exists any infirmity in the impugned action of the respondents and in the absence of any illegality, petitioners are not entitled for any relief from this Court under Article 226 of Constitution of India.

8. It is the further submission of the learned Standing counsel that the present action has been taken on the advice of High Level Coordination Committee in terms of clause 24 of the tender conditions. It is further submitted that having agreed to the conditions in the tender, now it is not open for the petitioners herein to assail the order under challenge. It is further submitted that the decision in the direction of

impugned action has been taken only in the interest of public and not with any malafide intention, as alleged by the petitioners herein.

9. There is absolutely no dispute with regard to the reality that the petitioners herein emerged as successful licensees pursuant to the auction held on 30.05.2016, in respect of the shops in Maha Mandapam for a period of three years commencing from 15.06.2016 to 14.06.2019.

10. By virtue of the impugned order, the 3rd respondent directed the petitioners herein to vacate their respective shops and handover the same during Dussehra celebrations with a clause that same can be reopened by the petitioners w.e.f 03.10.2017.

11. Clause 24 of the tender conditions clearly stipulates that during the sacred days, as per the recommendations of the Police and High Level Coordination Committee and as decided by the temple authorities, shops will be closed and licensees are not entitled for any extension of period or refund of the license fee. Evidently, in terms of the said clause, the present action has been initiated by the 3rd respondent, keeping in view the public interest during Dussehra celebrations.

12. Apart from this, another significant aspect needs to be noticed is that the instant transaction is purely a contractual transaction and in the absence of any patent infirmity, this Court is not inclined to meddle with the order impugned.

13. Accordingly, writ petition is dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 13.09.2017

Note:

CC in 3 days.

(B/o) dv



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