

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 7362 of 2012

ORDER:

1) The present writ petition came to be filed with the following prayer:

“issuance of writ of mandamus declaring the action of respondent No.3 in sealing the petrol pump of the petitioner vide notice dated 28.10.2011 is unlawful and incompetent and set aside the same as being arbitrary, illegal, unreasonable and violative of the petitioner's right under Articles 19 and 21 of the Constitution of India to do a lawful business and thereby set aside the said notice. Further it is respectfully prayed that the Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of respondent No.3 vide their letter dated 30.08.2011 directing the petitioner to deposit an amount of Rs.28,84,538/- with penal interest of Rs.2/- per month for the period from 01.04.2008 to 31.03.2011 as wholly arbitrary, illegal and violative of the petitioner's right under Articles 19 and 21 of the Constitution of India to do a lawful business and set aside the same.”

2) By an order, dated 27.03.2012, this Court while admitting the writ petition ordered interim suspension of the notices dated 30.08.2011 and 28.11.2011 subject to the condition that the petitioner shall pay an amount of Rs.10,00,000/- within a period of one week from the date of receipt of a copy of the order.

3) It is the case of the petitioner that the authorities were not allowing them to carry out the business. While things stood thus, on 26.02.2013 this Court passed the following order:

“I could find some solution for the writ petitioner’s problem. Inasmuch as, the 3rd respondent Guntur Municipal Corporation, Guntur, has agreed, in principle, to open the seals put on the premises of the writ petitioner and allow it to resume operations to the extent of exhausting the petroleum products, which are stored in the underground tanks by selling them away. Similarly, it is also open to the petitioner to quietly vacate and deliver the vacant possession of the premises in question to the 3rd respondent Municipal Corporation pending further adjudication of the disputes between the parties.”

4) A reading of the above order makes it clear that the third respondent agreed to open the seals and allow the petitioner to resume operations to the extent of exhausting the petroleum products, which are stored in the underground tanks by selling them away and thereafter the petitioner shall vacate and deliver possession to the third respondent.

5) Today when the matter is taken up for hearing, it is brought to the notice of the Court that the third respondent Corporation is not allowing the petitioner to take away the movable properties of the petitioner from the said premises as such they could not vacate the premises.

6) From the above, it is clear that the petitioner herein did not carry out any business in the said premises. The Standing Counsel

for the Corporation submits that they are not allowing the petitioner to take away the movables, as the petitioner is due a large sum of money. Having regard to the facts and circumstances of the case, the writ petition is disposed of, permitting the petitioner to take away the movable properties from the said property subject to fulfillment of the terms of the agreement entered into between the petitioner and third respondent Corporation. In default, the third respondent is at liberty to take steps in accordance with law in vacating the petitioner from the said premises.

7) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.



JUSTICE C. PRAVEEN KUMAR

15.02.2017

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