

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

WRIT PETITION No.27618 of 2017

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Endowments for respondent Nos.1 and 2 and Sri A. Srikantha Reddy for respondent No.3.

Earlier, after expiry of lease period, when the 3rd respondent issued notice, dated 29.03.2017, asking the petitioner to vacate the premises, the petitioner filed W.P.No.1698 of 2017 before this Court and this Court disposed of the said writ petition by way of order, dated 17.04.2017, granting time till 30.06.2017 to the petitioner to vacate the subject premises. Thereafter, the petitioner filed W.P.No.21389 of 2017 before this Court praying for the following relief:

“... to issue a writ, order or direction, more particularly one in the nature of a writ of Mandamus directing the 1st respondent to take on file and dispose of the revision filed by the writ petitioner on 27.06.2017 expeditiously and till revision is disposed of by the 1st respondent, direct the 3rd respondent not to dispossess the writ petitioner from the shop at Nagulaputta (Vasanthamandapam) by setting aside the proceedings of 3rd respondent in Rc.No.C2/1644/2017, dated 18.06.2017.”

This Court, on 11.07.2017, dismissed the said writ petition as infructuous while keeping it open for the petitioner to avail appropriate remedies available under law, after taking into consideration the statement made by the learned Standing counsel for the 3rd respondent that possession of the subject premises was already taken by the 3rd respondent

pursuant to the order, dated 17.04.2017, of this Court in W.P.No.12698 of 2017.

Now, in the present writ petition, the petitioner prays for the following relief:

“... to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declare the action of the 1st respondent herein in not disposing of the revision filed by the writ petitioner expeditiously and till the said revision is disposed of by the 1st respondent, direct the respondents to permit the writ petitioner to run his business from the shop at Nagulaputta (Vasanthamandapam) in terms of the proceedings in Rc.No.COE-14027(34)/22/2017-D, dated 27.07.2017 on par with the other shopkeepers.”

It is submitted by the learned counsel for the petitioner that earlier certain lessees, who are similarly situated, approached the State Government by way of a representation and in response to the said representation, the Hon'ble Minister vide note, dated 26.07.2017, stayed the auction, subject to the said lessees paying 50% extra rentals over the existing rents and they shall give an undertaking that they will handover the shops unconditionally whenever the master plan works are started or after completion of one year, whichever is earlier, and that a condition was also imposed that there should not be any pending arrears.

According to the learned counsel for the petitioner, the petitioner is also entitled for the same treatment.

On the contrary, it is submitted by the learned Government Pleader so also the learned Standing counsel that the present writ petition is hit by the doctrine of res

judicata, as the petitioner, for the self-same relief, filed earlier W.P.No.21389 of 2017.

A perusal of the relief portions in the earlier writ petition and the present writ petition clearly disclose that the relief sought in both the writ petitions is substantially the same and since the earlier writ petition was dismissed by this Court as infructuous, for the same relief the second writ petition i.e., the present writ petition cannot be maintained. However, it is open for the petitioner to make a representation to the 1st respondent, State Government, for consideration of his case for the relief, which the State Government granted in favour of similarly situated persons as mentioned supra, and it is up to the Government to pass appropriate orders on the said representation.

With the above observations, the writ petition is disposed of. No order as to costs.

Miscellaneous petitions, if any, shall stand closed.

A.V.SESHA SAI, J

Date: 08.09.2017
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