

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.22119, 22247, 22337, 22356 & 22418
OF 2017

COMMON ORDER:

As the subject matter involved in all these writ petitions is one and the same, they are being heard together and disposed of by way of this Common Order.

These writ petitions are filed assailing the orders dated 25.04.2017 in O.A.Nos.2966, 2969, 2970 and 2971 of 2010, 88 of 2011 filed under Section 83 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act 30 of 1987 (for short 'the Act of 1987') wherein the 1st respondent-Endowments Tribunal directed the petitioners to vacate the petition schedule shops within one month and handover the same to the 3rd respondent-temple institution and also directed to pay arrears of rents and at the same rate as damages for use and occupation till delivery of property.

Learned counsel for the petitioners submits that the petitioners were not in arrears of rent and there is no determination of arrears of rent and that the 1st respondent-Tribunal, without considering the plea of the writ petitioners, ordered eviction and also for payment of arrears of rent.

On the other hand, Sri N. Guru Gopal, learned Standing Counsel for the 3rd respondent-institution submits that there is no determination of arrears of rent and that when once the lease expires, petitioners cannot continue in the premises.

All the O.As are filed by the Assistant Commissioner, Endowments, Eluru and Sri Kesarapalli Anjaneya Dharma Sala rep. by its founder family member i.e., respondents 2 and 3 herein before the 1st respondent-Tribunal for eviction of the petitioners from the scheduled shops on the ground that the lease granted in favour of writ petitioners expired on 31.01.2010 and thereafter, there is no extension of the lease.

There is no dispute about the expiry of the lease period by 31.1.2010, which was granted for a period of 3 years in favour of the petitioners from 01.02.2007 to 31.01.2010 and same was approved by the 3rd respondent institution. After expiry of the lease period, the 3rd respondent issued notices for eviction of the petitioners from the schedule premises and that when they did not choose to reply, the petitioners become encroachers. The petitioners filed counter that they have paid rents regularly and also enhanced rents. But the 1st respondent Tribunal, after considering the oral and documentary evidence, came to the conclusion that there is nothing elicited to show that the lease still continued or petitioners are authorized to continue in the premises. When once lease in favour of the petitioners expired by 31.01.2010, the Tribunal-1st respondent rightly ordered for eviction of the petitioners from the scheduled shops. When there is no authority to continue in the premises, there is no justification for the petitioners to continue in the premises. As such, I do not find any error in the findings of the 1st respondent-Tribunal in ordering eviction of the petitioners, when the petitioners have no authority to continue, even though the lease period expired by 31.01.2010.

Learned counsel for the petitioners submitted that they have paid rents regularly since 01.02.2010 and that without determining the same, the 1st respondent- Tribunal ordered for payment of arrears of rents. A perusal of the impugned order of the Tribunal goes to show that the finding with regard to direction for payment of arrears of rents, is not based on evidence and there is no determination of rent, as such, the said finding is liable to be set aside. However, since the petitioners are paying rents regularly for long time from 01.02.2010 and it takes some time to choose alternate accommodation; this Court feels that six months time should be granted to vacate the premises.

In view of above facts and circumstances, order of the 1st respondent-Tribunal inasmuch as payment of arrears of rent and damages is set aside. As far as order for eviction is concerned, I do not find any reason to interfere with the finding of the 1st respondent-Tribunal. However, six months time is granted to the petitioners to evict the premises on condition of depositing rents in advance for the said period.

With the above direction, these writ petitions are disposed of. There shall be no order as to costs. As a sequel to the disposal of these writ petitions, miscellaneous petitions, if any, pending shall stand disposed of.

A.RAJASHEKER REDDY,J

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**WRIT PETITION Nos.22119, 22247, 22337, 22356 & 22418 OF 2017**

Date: 06.07.2017

kvs

