

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.23749 of 2013

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the writ petitioner seeking verbatim the following relief:

“...to issue a writ or order/ s or Direction/ s more particularly one in the nature of writ of Mandamus declaring the action of the respondents authority in issuing notice dated:03-08-2013,in no.593/ BPP/ HMDA/ 2010, the same is illegal, arbitrary, without jurisdiction violation of principles of equity as guaranteed under Article14,19(1) (g) of the Constitution of India and consequently set-aside the same with a further direction that the petitioner is entitled for proportionate reduction of rent in respect of licensed premises or in alternative to permit the licensed area for running entertainment inclusive of food court and party zone and pass such other order or orders...”

As there was no representation for the petitioner, on 25.04.2017, the matter was directed to be listed today under the caption 'For Dismissal'. Yet again there is no representation for the petitioner.

I have heard the submissions of the learned Standing Counsel for HMDA representing the 2nd respondent. I have perused the material record.

The learned Standing Counsel for HMDA representing the 2nd respondent, while bringing to the notice of this Court the facts and the averments in the counter affidavit, would submit as under: 'The lease period of the subject property in respect of the lease of the petitioner has come to an end by 31.07.2013. Today, this Court dismissed W.P.No.7885 of 2015 filed by the same petitioner, as the relief claimed in the said writ petition has become infructuous. The issue involved in this writ petition is identical to the issue involved in W.P.No.25105 of 2012,

which was disposed of by this Court by order, dated 22.09.2015. The said writ petition is also between the same parties; and, the arrears due relate to a contractual obligation between the parties. Since the subject matter in this writ petition relates to a contract, this writ petition is not maintainable. Therefore, this writ petition is liable for dismissal for the reasons alike as were mentioned in the orders, dated 22.09.2015, in W.P.No.25105 of 2012 by giving liberty to the petitioner to make an application for refund of the deposits and directing the respondents to consider the same in accordance with law and take action for release of amounts or for adjustment of dues.'

Recording the said submissions of the learned Standing Counsel for HMDA representing the 2nd respondent, this writ petition is dismissed as infructuous, however, giving liberty to the petitioner to make an application, if he so desires, for refund of the deposits and directing the respondents to consider the same in accordance with law and take action for release of amounts or for adjustment of dues. It is made clear that this order shall not preclude the 2nd respondent/HMDA from recovering any arrears/dues from the writ petitioner, however, in accordance with the procedure established by law.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

28th April, 2017
Bvv

M.Seetharama Murthi, J