

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.37939 OF 2017

ORDER:

This writ petition is filed seeking writ of mandamus declaring the action of the respondents in trying to dispossess the petitioners from their DOT shop Nos.1 to 13 situated in RTC Complex, Gajwel-Pragnapur for the purpose of demolition of the Bus Station Shopping Complex without any notice and without following due process of law, as illegal and arbitrary.

It is the case of the petitioners that they were allotted shop Nos.1 to 13 for running business with DOT (Deposit, Operate and Transfer) scheme at Bus Complex, Gajwel and that after allotment of shops, they were granted licenses on 05.02.2006 for running business for a period of 20 years commencing from 12.05.2005 to 04.05.2025 on a license fee of Rs.3,000/- to Rs.9,000/- depending upon the size of the shop towards monthly licence fee payable to the corporation and same is enhanced from time to time. Though the petitioners' license is valid till 04.05.2025, the respondents are trying to take action for dispossessing the petitioners from the subject shops. Aggrieved by the same, present writ petition is filed.

Counter affidavit is filed by the respondents 1 to 3 admitting about granting of licenses, but stated that the respondents came to know that the subject land is a Wakf land, as notified in A.P.Gazette No.46A at S.No.19051, dated 20.12.2001 and name of Muthavalli is mentioned as A.P.State

Wakf Board. That the land in which the existing Bus Station is located forms a part of the notified Wakf land and the Government of Telangana issued G.O.Rt.No.248, Minorities Welfare (Estt.I) Department, dated 27.10.2017 permitting the Chief Executive Officer of Telangana State Wakf Board to lease out the Wakf land to an extent of Acs.6.24 gts in Sy.No.326 of Gazwel Town for the purpose of construction of veg and non-veg market on rent of Rs.25,000/- per annum under Section 56 of the Wakf Act, 1995. Accordingly, the Chief Executive Officer of Telangana State Wakf Board allotted the land to an extent of Ac.6.24 gts in Sy.No.326 to the District Marketing Officer, Siddipet for a period of 30 years for construction of integrated Veg & Non-Veg Market and handed over the same on 04.11.2017. It is stated that the petitioners are licensees of the respondent Corporation and to protect their interests, it was decided to construct stalls in the new bus station and to allot them to the licensees with the same terms and conditions, so as to enable them to run their business in the Stalls constructed in the new bus station for the balance licence period; that the Government has decided to construct ultra modern Bus Station in a larger area; that pursuant to the communication of the District Collector dated 02.11.2017, it is revealed that the respondent Corporation has no title over the property and the petitioners, who have licenses with the Corporation, have to move to the new Bus station. That the petitioners being licensees, have no legal right to the property, as the licensor itself has no legal right to continue in the premises.

Reply affidavit is filed by the petitioners reiterating the averments in the affidavit filed in support of the Writ Petition.

Heard learned counsel for the petitioners and learned Advocate General appearing for the respondents.

Learned counsel for the petitioners submits that the licence period of the petitioners is valid and subsisting till 04.05.2025, as such, they cannot be evicted without following due process of law. He submits that the subject shops have been constructed on the deposits made by the petitioners, as such, they cannot be evicted abruptly. He submits that apart from licenses in favour of the petitioners, proper procedure has to be followed for evicting the petitioners from the subject shops. In support of his contentions, he relied on the judgment reported in **Bharat Petroleum Corporation Limited vs. Chembur Service Station**¹.

On the other hand, learned Advocate General appearing for respondents submits that when the licences were granted, the respondents were not aware that the subject property is a Wakf Property and subsequently, it came to know of the said fact. He submits that when the respondents themselves have no title to the subject land, licensees cannot get better title than the licensor has. He also submits that as on today, no action is taken and the writ petition is a premature one and that the respondents will follow whatever the procedure is envisaged under the law for taking any action.

¹ (2011) 3 Supreme Court Cases 710

In view of above facts and circumstances, the writ petition is disposed of directing the respondents not to take any action, without following due process of law. There shall be no order as to costs. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

11-12-2017

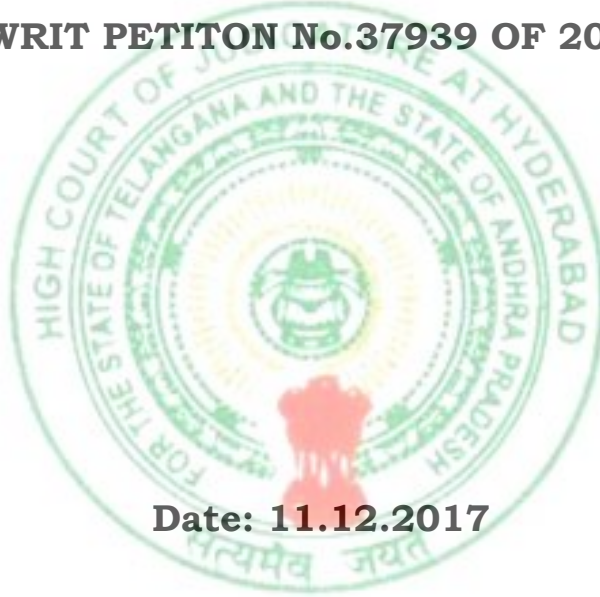
Note: Issue CC in three (3) days.

B/o. kvs



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