

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.39032 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“For the reasons stated in the affidavit filed in support of this writ petition the petitioner humbly prays that this Hon’ble Court may be pleased to issue a writ, order or direction and more particularly one in the nature of writ of Mandamus declaring the acts of the 3rd Respondent in issuance of the Notice vide R.C.No.196/2017/A1, dated 08-11-2017 to the Petitioner to shift the premises of the A4 shop of the Petitioner is illegal, arbitrary and violative of principles of natural justice and also against to the A.P. Excise (Grant of license of selling by shop and conditions of license) Rules, 2012 and to pass such other order or orders as this Hon’ble Court deems fit and proper in the circumstances of case.”

(Reproduced verbatim)

2. I have heard the submissions of Sri *Ch. Venkat Raman*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Excise appearing for the respondents 1 to 3. I have perused the material record.

3. The case and the grievance of the petitioner, in brief, are as follows: ‘The petitioner is holder of a Form-2B licence for running a Wine shop in the premises bearing D.No.10-12-442, Kotakammala Street, Tirupathi, which is situated in Survey No.15 of Avilala Village, Tirupathi Rural Mandal, Chittoor District, and the petitioner is running his business under the name and style of ‘M/s. R.R. Wines’. While so, the petitioner received a notice, dated 08.11.2017, from the 3rd respondent *vide* Proceedings in Rc.No.196/2017/A1, whereby he was requested to shift his business premises within 15 days of receipt of the notice. Aggrieved thereof, the present writ petition is filed.’

4. Learned counsel appearing for the petitioner would submit that the 3rd respondent is not the competent authority for issuing the notice impugned and if any shifting of the Bar and Restaurant of the petitioner from the present premises is required, the notice ought to have been issued by the competent authority.

5. However, the learned Government Pleader appearing for the respondents, on written instructions, would submit that the wine shop is located near Sri Padmavathi Mahila University surroundings in Tirupathi, and hence, it has to be either closed or relocated and that the shifting of the licensed premises to alternate premises is necessary in public interest. However, he does not dispute the legal position that the competent authority for issuing the notice is the Commissioner, Prohibition and Excise, Chittoor.

6. Recording the submissions, the Writ Petition is allowed and the impugned notice is set aside, however, reserving liberty to the respondents 1 to 3 to issue a fresh notice, if necessary, by following the procedure established by law, if the facts of the case warrant such initiation of action.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 27th November, 2017

Note: Issue C.C. on 29.11.2017.

(B/o.)
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