

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.38558 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 accompanying Affidavit the Petitioner herein respectfully pray that this Hon’ble Court may be pleased to issue an appropriate Writ or Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd Respondent in issuing the proceedings under Rc.No. 198/2017/A dated 09-11-2017 as illegal, arbitrary, and contrary to the provisions of A.P. Excise Acts and the Rules made thereunder and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India and the principles of Natural Justice and consequently set aside the same and to pass such further orders as this Hon’ble Court may deem fit in the facts and circumstances of the case.”

(Reproduced verbatim)

2. I have heard the submissions of Sri V. Vinod K.Reddy, learned counsel appearing for the petitioner, and of the learned Government Pleader for Excise appearing for the respondents 1 to 5. 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 Bar and Restaurant in the premises bearing No.20-2-626 (Survey No.9-1A1), situated in Maruti Nagar, Korlagunta, Tirupati, Chittoor District, and the petitioner is running his business under the name and style of ‘M/s. Royal Restaurant and Bar’. While so, the petitioner received a notice, dated 09.11.2017, from the 3rd respondent *vide* Proceedings in Rc.No.198/2017/A, 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 liquor outlet is located near Municipal High School, Korlagunta Area, Tirupathi Municipal Corporation, 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, Vijayawada.

6. Recording the submissions, the Writ Petition is allowed and the impugned notice is set aside, however, reserving liberty to the respondents 1 to 4 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. by tomorrow.

(B/o.)
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