

THE HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION NO.6210 of 2016

ORDER:

Heard the learned counsel for the petitioner, Sri K.Jagan Mohan Reddy, learned standing Counsel for respondent no.3 and learned Government Pleader appearing for respondents 1,2 and 4.

The prayer in the writ petition is as under:

“For the reasons stated in the accompanying affidavit, it is therefore humbly prayed that, this Hon’ble Court may be pleased to issue an order or direction or writ, more appropriately A WRIT OF MANDAMUS to declare the issuance of impugned notices by 4th respondent i.e. Rc.No. 56/ SLNSD /2014, dated 30.01.2016 by enclosing two other notices, i.e. Notice-2 and Notice-3, dated 12.2.2016, which are reached to the petitioner on 17.02.2016 as illegal and set aside the same and further direct the respondents herein to extend the lease period of one year for leasing of tent articles to the petitioner who participated in the public auction as per the tender notice dated 2.3.2015 issued by the 4th respondent, who sustained huge financial loss due to negligence of the 3rd and 4th respondents by not getting vacated the existing private tent shops within the 3rd respondent temple premises and further direct the 3rd and 4th respondents to follow the condition No.1 of the Tender notice dated 02.03.2015 by getting vacated the private tent shops within the 3rd respondent temple premises and should not allow such illegal shops during the auction period or otherwise refund auction amount of Rs.1,80,000/- to the petitioner forthwith and to pass such other order or orders which are deemed fit and just in the circumstance of the case.”

The facts of the case are that the 4th respondent issued auction notice in Rc.No.56/SLNS/2014 dated 2.3.2015 inviting applications from the public for leasing out the tent articles to the devotees on a fixed price for a period of one year and also for parking on 9.3.2015. Pursuant to the said notification, the petitioner participated in the open auction in respect of leasing of tent articles on 9.3.2015 by depositing Rs.1,00,000/- as per terms and conditions of the auction notice and stood as highest bidder for Rs.3,60,000/-. Accordingly, the petitioner paid 50% of the total bidding amount i.e. Rs.1,80,000/- on the same day. The 4th respondent has taken post dated cheques for the balance of Rs.1,80,000/- in two instalments. As per the conditions in the auction notice, boundaries are fixed for leasing of tent articles by the highest bidder to the devotees of the 3rd respondent-Temple and no other person shall be allowed to do similar business within the premises of the 3rd respondent-Temple. In-fact, condition no.1 of the auction notice dated 2.3.2015 contemplates that it is the duty of the respondents 3 and 4 to get vacated the existing private tent shops within the 3rd respondent-temple premises. But no action was taken till date in spite of repeated complaints made by the petitioner on

18.4.2015, 13.6.2015 and 3.11.2015. As the private tent shops were also allowed to rent the tent articles, counsel for the petitioner would submit that the petitioner sustained heavy loss.

Learned Standing counsel appearing for the 3rd respondent filed counter affidavit denying the averments made in the affidavit filed in support of the writ petition and contended, *inter-alia*, that the writ petition as filed is not maintainable and is liable to be dismissed. It is also stated in the counter affidavit that no private people other than the petitioner is doing the business in the temple premises except fire wood and water bottle business which is not at all related to the tent house business. The 3rd respondent also stated that several steps were taken such as informing to the police to provide security to restrain other private people other than the lease holder to do business in the premises. The said complaint is only to escape from payment to the temple and, therefore, sought for dismissal of the writ petition. It is also specifically pleaded that the writ petition is filed only to escape from the balance payment of Rs.1,80,000/- to the temple as his lease period is going to expire in the month of March, 2016 and it is evident from the dishonour of the cheques issued by the writ

petitioner bearing Cheque No.516570 dated 1.12.2015 for Rs.80,000/- and another cheque for Rs.1,00,000/- for insufficient funds.

From the perusal of the material on record, and based on the contentions raised by both the counsel, the lease which was executed to lease the tent articles already expired in 2016 itself. However, in the light of the contentions raised that whether the other private shop owners were also allowed to lease the tent articles within the jurisdiction of the 3rd respondent premises or not is a disputed question of fact for which this Court, in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, cannot decide the same. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. However, the petitioner is at liberty to take appropriate steps available to him, as per law, for the grievance ventilated in the present writ petition.

JUSTICE P.KESHA RAO

Date: 24/04/2018

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