

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.10498 of 2007

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the action of the respondent in dispossessing the 1st petitioner from Shop No.255, 2nd floor of S.V. Shopping complex at Tirumala, Chittoor District, without notice, as arbitrary and illegal and consequently, direct the respondent to permit the 1st petitioner to continue to run the shop.

2. Originally the 1st petitioner filed the writ petition and after her death, as per the order of this Court, 2nd petitioner, who is her son, is added as legal representative. It is the case of the 1st petitioner that her father-in-law by name V.Subba Rayulu was allotted Shop No.3 in D-Type Quarters for conducting business of Hair Cutting Saloon in the year 1985. Thereafter, in the year 1996, the said shop was shifted to 2nd floor at RBGH Mini Shopping Complex, Tirumala, on condition that the trade should be changed from Saloon to Fancy shop. The licence was granted for a period of one year. The said V.Subba Rayulu fell in arrears of Rs.6,300/- and thereafter, he cleared the same as directed by the authorities. The said V.Subba Rayulu died on 10.05.2001. Thereafter, the 1st petitioner made an application for change of allotment of shop in her name as she has minor children to take care of them. Though she made an application for change of allotment of shop in her name, there was no change and she is continuing the business in said shop. While things stood thus on 04.05.2007, the respondent officials had taken away certain documents including the original licence of the shop on the ground that the licence was expired in the year 1997 itself. No notice was given to the 1st petitioner for

terminating the licence and no proceedings were initiated treating the petitioner as encroacher under the Land Encroachment Act. The amounts demanded from time to time were being paid including penalty. The allotment of D-Type quarter at Tirumala to V.Subba Rayulu is in lieu of acquiring property in the year 1985. In those circumstances, the 1st petitioner has vested right to continue to run the business in the said shop. The 2nd petitioner, being the grandson of the original allottee, is entitled to continue to run the business. Hence, the Writ Petition.

3. This Court, at the admission stage, granted interim stay and on account of interim stay, the 1st petitioner is continuing business in the subject shop.

4 A detailed counter-affidavit is filed by the respondent refuting the averments in the writ affidavit. At the out set, it is stated that the 1st petitioner is not entitled for allotment of any shop on the ground that her husband was an employee in TTD; that as per the policy, the family members of the employees working in TTD or any one concerned with the said employees are not entitled for allotment of shops; that on that ground, the petitioners are also not entitled for allotment of shop; that the request made by the 1st petitioner to change the shop and transfer the licence in her name was in fact rejected by the TTD and it is only on account of the interim orders of this Court the 1st petitioner and thereafter the 2nd petitioner is continuing. It is further stated that this Court, in a case reported **M.Deva Narayana Reddy v. Govt. of A.P.**¹, held that the TTD cannot pass resolutions for allotting sites to the displaced persons whose lands were acquired under the provisions of the Land Acquisition Act and adequate compensation was already paid;

¹ 2004 (2) ALT 65 (DB)

that in view of law laid down by the Division Bench of this Court, the respondent-Devasthanam has taken a policy decision not to allot any shop or give alternative site to displaced persons whose properties were acquired and to whom compensation was paid; that in view of the above, the petitioners are not entitled to allot shop; that Shop No.255 was originally granted for a period of one year and thereafter, there was no renewal and thus, the licence got in favour of V.Subba Rayulu itself is seized to exist; that as per the Board Resolution No.119, dated 20.05.2007, on death of original allottee, his wife will become the legal heir and in the absence of his wife, his major son would be entitled to transfer the licence subject to condition that he is not an employee in the TTD; that in the present case, the son of original allottee Sri V.Subba Rayulu, was an employee in TTD, the 2nd petitioner is not entitled to run the shop; that there is no policy of transfer of the licence in favour of the 1st petitioner and at any rate, the 1st petitioner being the family member of the employee working in TTD, she is not entitled for grant of licence; that in those circumstances, by proceedings, dated 14.06.2013, the request of the 1st petitioner for transfer of licence in her name or in the name of her son was rejected and the said order has become final and therefore, there is no merit in the writ petition and accordingly, prays for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondent.

6. Admittedly, there is no dispute with respect to the specific assertion of the respondent that the 1st petitioner's husband was an employee working in TTD and in those circumstances she is not entitled for transfer of licence in her name or in the name of her son. There is no policy of granting the shops/sites in favour of the deceased licensee.

The only circumstance, in which the licence could be transferred to major son, is subject to condition that the said individual is not an employee working in TTD. In those circumstances, occupation of shop by the 2nd petitioner on the demise of the 1st petitioner being the son, is only on account of interim orders of this Court and there is no vested right to continue to run the shop. As a matter of fact, the request of the 1st petitioner pursuant to the orders of this Court in W.P.M.P.No.7381 of 2009 in W.P.5645 of 2009 was considered and came to be rejected by proceedings, dated 14.06.2013. It may be noted that as there was no challenge to the proceedings, dated 14.06.2013, the said proceedings were become final. Therefore, there is no merit in the writ petition and accordingly, the writ petition is liable to be dismissed. However, considering the fact that the 2nd petitioner is in occupation shop and running the business as on date, three (3) months time is granted for vacating shop and making alternative arrangement.

7. With the above direction, the Writ Petition is dismissed. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

JULY 03, 2018

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Date:03.07.2018

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