
(2002) 01 AP CK 0060

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 13547 and 25343 of 1997

G. Gangadhar

APPELLANT

Vs

APSRTC, Nizamabad and Another

RESPONDENT

Date of Decision : 30-01-2002

Acts Referred:

Easements Act, 1882 — Section 60

Citation : (2002) 2 ALD 416

Hon'ble Judges : P.S. Narayana, J

Bench : Single Bench

Advocate : Govardhan Venu and H. Srinivasa Rao, for the Appellant; Nanda R. Rao, for the Respondent

Final Decision : Dismissed

Judgement

P.S. Narayana, J.—Heard the learned Counsel for the petitioner and also Mrs. Nanda Ramachandra Rao, learned Standing Counsel for the A.P. State Road Transport Corporation.

2. As the subject-matter and the parties in both the writ petitions are one and the same, both the writ petitions can be disposed of by a common order.

WP No. 25343 of 1997:

3. This writ petition was filed for a writ, direction or order and more particularly one in the nature of writ of mandamus declaring that the alteration of nature of user of shop No.5 in Armoor bus stand from clinic to books and stationery in the tender notification bearing No.CI/122/(56)/1997 R.M. Nizamabad, dated 25-8-1997 was mala fide, arbitrary, illegal and violative of Articles 14, 19(1)(g) and 21 of the Constitution and for other appropriate reliefs.

4. The case of the petitioner as stated in the affidavit filed in support of this writ petition is as follows:

5. The petitioner is private medical practitioner with qualification of MBBS and

has been running clinic in Amoor town for the past two decades. It is also further stated that after the new bus stand was constructed in the year 1988, the first respondent through its Divisional Manager offered one shop in that bus stand for clinic by calling tenders from the general public, in pursuance of the same, the petitioner became the successful bidder and was allotted shop No.5 for the purpose of running of clinic and as such the petitioner has been running clinic in the said shop No.5 from the year 1988 onwards. It is further stated that on 21-1-1997 the respondents called for fresh tenders for various shops in various bus stands in the Nizamabad region. As per the proceedings bearing No.CI/122(7)/96 R.M./Nizamabad, dated 8-1-1997, publication was made in "Eenadu" daily newspaper calling for tenders for the shop which was earmarked for clinic; the petitioner along with others submitted the tender; the tender of one NandaKumar was accepted as highest bidder but, however, he failed to comply with the tender conditions and failed to deposit six months' tenure fee as security deposit and hence his allotment was forfeited. It is further stated that the respondents addressed a letter, dated 2-6-1997 calling upon the petitioner to vacate the premises by 30-6-1997; that in reply to the same the petitioner wrote letters to the respondents requesting them to continue him in the shop; that he was willing to pay the same licence fee as that of the successful bidder who failed to comply and whose allotment was thereby forfeited but, however, the respondents did not consider the request of the petitioner and insisted that he should vacate the premises and, therefore, the petitioner filed WP No. 13547 of 1997 before this Court and obtained the order of conditional stay. It is further stated that the petitioner had been requesting the respondents for allotment of shop to him so that he can continue the clinic for a further period of 3 years but the respondents did not consider the request of the petitioner and on the contrary developed grudge against the petitioner. It is specifically stated that the said shop is for the purpose of running clinic. Further the petitioner narrated the services, which he has been rendering by running the said clinic. In WP. No.29516 of 1997 this Court passed an interim order on 1-10-1999 staying the eviction and made the same absolute on 5-8-1999.

WP No. 13547 of 1997:

6. This writ petition was filed for issue of writ of mandamus or any other appropriate writ, order or direction, declaring the action of the respondents in not allotting shop No.5 in the bus station, Amoor to the petitioner as illegal, arbitrary and bad in law. Since this writ petition was also filed with regard to the same issue, the facts need not be repeated again. On 1-7-1997 this Court passed an interim order in WPMP No.16295 of 1997 to the effect that the petitioner should not be evicted if the allotment was not finalised in his favour or till allotment was made by the respondents on condition of the petitioner filing an undertaking before the second respondent that if the clinic shop No.5 was allotted to some third party, he should vacate and hand over the vacant possession of the same to the respondents.

7. The learned Counsel for the petitioner submits that the petitioner has been rendering service as a medical practitioner and the shop in dispute is specifically earmarked for a particular purpose and hence the petitioner is entitled to the relief as prayed for. On the contrary, Mrs. Nanda Ramachandra Rao points out that the petitioner has no legal right to maintain the writ petitions after expiry of the period. Relying upon the decisions in V. Sabitha Vs. APSRTC, Hyderabad, , A.P.S.R.T.C., Mushirabad and Others Vs. N.R. Nagappaiah, , A Rajagopai v. Regional Manager, APSRTC 1997 (1) ALD 678 and S. Sudhakara Gupta Vs. APSRTC, Mushirabad, Hyd. and Others, , the learned Standing Counsel submits that the petitioner has no legal right to maintain the writ petition after expiry of the period; that while putting the shops to auction or while making allotment of shops it is for the A.P. State Road Transport Corporation to decide the nature of business "to be run in a particular shop and that the petitioner has no legal right to insist upon that particular shop should be continued for the purpose of running clinic only.

8. The nature of relief prayed for in WP No.25343 of 1997 is for a writ of mandamus declaring that the alteration of nature of user of shop No.5 nimbus stand, Armour from clinic to books and stationery in the said tender notification, dated 25-8-1997 as arbitrary, illegal and violative of Articles 14, 19(1)(g) and 21 of the Constitution. The A.P. State Road Transport Corporation is at liberty to deal with its own property in the manner as it likes subject to the limitations if any provided by the statutory provisions and the rules and regulations. No provision has been brought to the notice of this Court to show that there is any bar from altering the nature and user of a shop by the A.P. State Road Transport Corporation. Hence I have no hesitation to hold that a writ of mandamus of this nature cannot be issued at all since the petitioner has no legal right as such. There is no legal obligation or a duty cast upon the A.P. State Road Transport Corporation to continue the same nature and user of the shop forever. It is not in dispute that the period of licence granted to the petitioner expired long back and in the light of the interim order passed by this Court the petitioner continues in possession of the shop. In the above said decisions also, it was held that after expiry of period of licence a licensee has no legal right to question the action of the A.P. State Road Transport Corporation. As already stated, the licence period of the petitioner elapsed long back and the petitioner has no legal right to claim the relief prayed for in WP No. 13 547 of 1997.

9. In the light of the same, I am of the considered opinion that the reliefs prayed for in these writ petitions are totally unsustainable in law. The writ petitions are devoid of merits and they are accordingly dismissed without costs.