

(2021) 07 TEL CK 0002

In the Telangana High Court

Case No : Writ Petition Nos. 7110, 7120, 7126, 7150, 7165, 7176, 7279, 7707, 7827, 7911, 8008 Of 2021

Puli Mallesham

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 02-07-2021

Acts Referred:

Immovable Properties and Other Rights (Other than Agricultural Lands), Leases and Licenses Rules, 2003 — Rule 15

Citation : (2021) 07 TEL CK 0002

Hon'ble Judges : T. Amarnath Goud, J

Bench : Single Bench

Advocate : R N Hemendranath Reddy

Final Decision : Dismissed

Judgement

1 Since the issue involved in all these Writ Petitions is one and the same, all these Writ Petitions are disposed of by this common order.

2 The Writ Petitioners are successful tenderers for the year 2019-2021 ending by 31.3.2021 for conducting the business in the shops allotted for selling

coconuts, bangles, canteen etc., in the respondent temple area for a lease amount payable as per tender auction conditions.

3 For the sake of convenience and since the sum and substance of all the Writ Petitions is one and the same, I refer to the facts as pleaded in

W.P.No.7110 of 2021, which are as follows:

4 The case of the petitioner is that the third respondent â?" Sri Anjaneya Swamy Devasthanam, Kondagattu, Karimnagar District had issued tender

notification in R.C.No.L/139/2018 inviting tenders from interested bidders for running the shop to sell the coconuts to the devotees for the period from

01.4.2019 to 31.3.2021 i.e. for a period of two years. In pursuance of the same, the petitioner participated in the tender and became highest bidder and

has been running the coconut shop in the premises of the third respondent temple by paying requisite amount. However, due to Covid â?" 19

pandemic, the petitioner had to close the shop from March 2020 till October 2020 as such he suffered loss of business for more than seven months.

Due to partial lifting of lockdown, the petitioner could do some business but due to prevailing situation in the State, the number of devotees visiting the

temple has been drastically reduced and as such he is not in a position to do regular business as was being done prior to the eruption of the pandemic.

The petitioner along with other vendors requested the Executive Officer of the third respondent for extension of the lease period by three more years

in view of the loss sustained by them. Thereupon, the Executive Officer addressed letter dated 02.02.2021 to the Commissioner of Endowments,

requesting him to consider his proposals sent vide proceedings dated 18.02.2020 wherein he positively recommended for extension of lease period.

However, till date, the Commissioner of Endowments has not responded to the said proposals / recommendations made by the Executive Officer of

the temple.

5 It is the further case of the petitioner that to their utter shock and surprise, the respondents have issued the impugned tender notice dated 12.3.2021

intimating to the public that e-tender auction would be held on 26.3.2021 at 12.00 PM for running the shops mentioned therein including the shop for

selling coconut for a period of two years from 1.4.2021 to 31.3.2023. Aggrieved thereby, the petitioner filed the present Writ Petition.

6 While admitting the Writ Petition, this Court by order dated 25.3.2021 passed order in I.A.No.1 of 2021 suspending the operation of the impugned

tender notification subject to the condition that the petitioner shall deposit 50% of the arrears payable to the temple within a period of one month and

on such payment, the petitioner shall be permitted to conduct his existing business for a period of three months i.e. from 01.4.2021 to 30.6.2021.

7 While so, the petitioner filed I.A.No.2 of 2021 stating that only 25% of arrears have been deposited in terms of the interim order and requested the

Court to extend the time to deposit the remaining 25% arrears up to 31.12.2021 and also to extend the lease period up to 31.3.2023 by contending that

due to the Corona pandemic the temple is closed for the period from 21.4.2021 to 30.4.2021 and also due to the drastically reduction in the number of

devotees visiting the temple and further prayed not to insist any more amounts.

8 The Assistant Commissioner of Endowments, Karimnagar District and Executive Officer (FAC) of the Temple filed counter admitting the factum of

imposing lockdown throughout the country. It is also admitted in the counter that the petitioner was unable to carry out the business during the

lockdown period i.e. for a period of 78 days for which period the temple remained closed for devotees. However, it is submitted that even the temple

had sustained huge financial loss in the form of reduction of its revenue accruing from the contributions and donations of the devotees and that the

temple is also finding it difficult to pay salaries to the employees and as such not only the petitioner but also the temple is at loss. It is submitted that

the stipulated lease in favour of the petitioner is from 01.4.2019 to 31.3.2021. Therefore, he cannot seek extension of the lease period for a further

period of one year. It is further submitted that since there are no orders from the Commissioner of Endowments, the case of the petitioner cannot be

considered for extension; and therefore, the temple has issued fresh tender notification. It is further submitted that even as per the interim orders of

this Court passed in I.A.No.1 of 2021, the petitioner failed to abide by the orders of this Court and hence he cannot seek extension of the lease period

beyond 30.6.2021.

9 Heard Sri R.N.Hemendranath Reddy, Sri C.H. Satish Kumar and Ch.Ravinder learned counsel for the petitioners in all the Writ Petitions and Sri

Kotha Jaganmohan Reddy, learned Standing Counsel for Endowments/respondent Temple and Government Pleader for Endowments.

10 The learned counsel for the petitioners in one voice submitted that the petitioners have faced severe financial and economic troubles due to the

Covid â?" 19 pandemic and also due to the fact that the number of devotees visiting the temple has drastically plummeted due to fear of the pandemic.

In such circumstances the respondent temple without taking into consideration the miserable and pathetic situation of the petitioners, has issued the

impugned notification calling fresh tenders. It is further submitted that in the second wave also the temple was closed for some days and the

percentage of the devotees visiting the temple has also significantly come down.

Therefore, it is just and necessary to strike down the impugned tender notification as is being callous otherwise the petitioners would be put to serious and irreparable loss and relied on Devashree Ispat Private Limited V.

State of Telangana Rep. by its Principal Secretary, Energy Dept., Hyderabad (2021) 0 Supreme (Telangana) 17.

11 On the other hand Sri Kotha Jaganmohan Reddy, the learned Standing Counsel for the Endowments â?" respondent Temple submitted that the

petitioners are due crores of rupees payable to the Temple and extension of the lease period for a further period of one year is contrary to the Rule 15

of the Immovable Properties and Other Rights (Other than Agricultural Lands), Leases and Licenses Rules, 2003, which says that â?"any lease or

license granted, continued or allowed to be continued otherwise in accordance with rules shall be null and voidâ?". He further submitted that even the

temple had sustained huge financial loss in the form of reduction of its revenue accruing from the contributions and donations of the devotees and that

the temple is also finding it difficult to pay salaries to the employees and as such not only the petitioners but also the temple is at loss. He further

submitted that the petitioners instead of paying 50% of the arrears as ordered by this Court vide order dated 25.3.2021, have only paid 25% of the

arrears and that the subject temple is currently undergoing huge financial uncertainties and at this stage stoppage of the tender would have serious

implications over the financial stability of the entire institution and also upon the lives of the staff who depend on the temple for their livelihood. He

lastly contended that the financial position of the temple is more precarious than that of the petitioners, therefore, the impugned notification cannot be

put at stake and prayed to dismiss the Writ Petitions.

12 No doubt, it is an admitted fact by both parties that the temple was under lockdown for a period of 78 days. The lease of the petitioners came to an

end by 31.3.2021. However, this Court by order dated 25.3.2021 granted extension of the lease of the petitioners till 30.6.2021 i.e. for a period of 90

days. It is to be noticed that not only the petitioners but also the temple had sustained huge loss during the lockdown period. In so far as the devotees

not visiting the temple and the petitioners faced loss is concerned, it is a part of business. Once the petitioner participated in an auction, he should have

knowledge and should be ready to enjoy the profit as well as to sustain the loss

equally. There cannot always be profit and at the same time loss due to any unforeseen situation. Taking advantage of the situation, the petitioners cannot seek extension beyond the lease period as a matter of right. As seen from the tender notification, there is no mention for such extension of lease period.

13 Further, during the course of arguments, when there was a submission made from the side of the petitioners that the Government of Andhra

Pradesh has taken up a policy decision to extend existing lease periods by one more year taking into consideration the effect of Covid- 19 pandemic

and they are expecting the same instructions from the Government of Telangana also, this Court, basing on the said submission and by taking a lenient

view towards the petitioners, directed the petitioners to pay 50% of the arrears within a period of one month. Petitioners have accepted the said

interim order. However, the petitioners themselves admitted that they have not paid the 50% of arrears as ordered by this Court by way of interim

measure, but paid 25% of the arrears only with delay and some are still due. So they became defaulters as they failed to comply with the said order.

They have not sought for extension of time to pay the amounts in April 2021. Hence their bona fides cannot be appreciated. The petitioners have no

legitimate right to continue in the lease premises beyond the lease period. More over, it is to be seen that though the lease of the petitioners came to

end by 31.3.2021, still they were in occupation of the leased premises till 30.6.2021 in pursuance of the interim order of this Court dated 25.3.2021.

The petitioners contend that there was lockdown of 78 days during the Corona Pandemic. Even according to that, they enjoyed 90 days of extended

period from 31.3.2021 till 30.6.2021. So they cannot agitate on that ground that they have not enjoyed the full time lease period.

14 It is to be seen that the temple has to run its administration and has to pay salaries to the staff besides overheads and maintenance charges and it is

depending on the revenue generated from out of the lease amounts. Therefore, the interest of the temple has also to be protected. If the petitioners do

not pay the lease amount to the temple, the temple also would face hardship as it has no sufficient funds and no other source of income. On one hand

the petitioners did not pay the lease amounts fully nor did they comply with the interim order of this court by paying 50% of the arrears due. In such

circumstances, the action of the respondent temple in issuing the impugned tender notification cannot be questioned since stoppage of the tender cum

public auction process would have serious financial implications on the entire institution.

15 Further, it may be a fact that the Executive Officer of the temple has sent some proposals to the Commissioner of Endowments recommending the

case of the petitioners for some favourable consideration. The Government declined to consider the recommendations of the Commissioner and

returned the file. Basing on the factual scenario, this Court is nothing to do with that aspect.

16 As stated supra, due to Covid-19 lockdown 78 days the business of the petitioners was completely closed. This Court granted them 90 days to

continue the business. Hence it cannot be said because of lockdown they sustained loss. In so far as devotees not visiting the temple in large number

is a part of business and it is all in the game. Profit and loss are bound to happen. The petitioners are at liberty to approach the Government seeking

any relief. The petitioners have not filed any evidence to show the amount of loss they have sustained and have brought to the notice of the

respondents with regard to the loss sustained. In the absence of any determination of loss sustained, a blanket relief extending the lease period to the

petitioners is unjust and unreasonable keeping in view the functioning of the temple. The judgment of Devashree Ispat Private Limited case is not

applicable to the facts of the present case.

17 For all the above reasons, I see no merit in these Writ Petitions and accordingly they are liable to be dismissed as devoid of any merit.

18 In the result, all the Writ Petitions are dismissed. No order as to costs. Miscellaneous petitions, if any, pending in these Writ Petitions, shall also

stand dismissed.