
(2012) 12 AP CK 0053

In the Andhra Pradesh High Court

Case No : Writ Petition No. 30561 of 2012

Ram Prakash Agarwal

APPELLANT

Vs

Indian Oil Corporation Ltd. and Others

RESPONDENT

Date of Decision : 07-12-2012

Acts Referred:

Citation : (2013) 3 ALD 277 : (2013) 4 ALT 66

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : Pushpinder Kaur, for the Appellant; M.A. Hameed for Deepak Bhattacharjee (SC for OICL), Counsel, for the Respondent

Final Decision : Dismissed

Judgement

C.V. Nagarjuna Reddy, J.—This writ petition is filed for a mandamus to set-aside proceedings in Ref. No. SDO/R/Ameerpet Ser.Stn, dated 12.7.2010 and the consequential Proceedings No. APSO/RS/VIP/2010-11/68, dated 31.3.2011 of the respondents. The petitioner was appointed as a dealer for running a retail outlet at Ameerpet, Hyderabad in the name of Ameerpet Service Station. An agreement was entered into on 29.5.2004 for a period of 15 years. As the ill-luck of the petitioner would have it, the landlord of the site over which the retail outlet was located, filed eviction petition against the respondents and obtained a decree for eviction. The said decree attained finality with the dismissal of the SLP by the Supreme Court by order dated 31.3.2009, whereunder the respondents-Corporation was granted time till 31.12.2009 to vacate the premises upon filing the usual undertaking. As per the undertaking furnished by the respondents, possession was handed over by the petitioner to the decree-holder. The dealership agreement has thus got prematurely terminated with the eviction of the petitioner and the respondents from the site in question.

2. After vacation of the premises, the petitioner approached the respondents for allotment of another retail outlet. Through letter dated 12.7.2010, the Chief Divisional Retail Sales Manager of the respondents informed the petitioner that

the agreement between the parties was a site-specific one and that in view of the order of the Supreme Court, they were compelled to vacate the premises. To the request of the petitioner to allot a Company Owned and Company Operated (COCO) retail outlet, it was stated that the decision will be taken as per the policy of the Corporation. The respondents have also addressed another letter dated 31.3.2011 wherein it was stated that as per the guidelines of the Corporation, the allotment of COCOs has to be made to the pending LOI holders only and that the same cannot be allotted to the petitioner directly. The respondents have however advised the petitioner to put in all his efforts to offer a suitable site so that necessary action can be taken for entrusting the retail outlet to him. Not being satisfied with the said reply, the petitioner filed this writ petition.

3. I have heard Smt. Pushpinder Kaur, learned Counsel for the petitioner and Sri M.A. Hameed, learned Counsel representing Sri Deepak Bhattacharjee, learned Standing Counsel for the respondents.

4. A perusal of the dealership agreement dated 29.5.2004 shows that the same is in respect of the premises at Ameerpet, Hyderabad, It is not the pleaded case of the petitioner that the said agreement contains any clause by which the respondents have undertaken to relocate the outlet at a different place in the event of premature vacation of the premises covered by the agreement. In the absence of any such right vested in the petitioner or an obligation cast on the respondents under the agreement, the former cannot claim enforceable right by way of issuance of a mandamus by this Court to the latter to allot an alternate retail outlet. Even though the respondents have no obligation to provide the retail outlet dealership at an alternative site, still, as evident from letter dated 31.3.2011 referred to above, they have made a fair offer to the petitioner to show an alternative site in order to enable them to continue the latter as a dealer.

5. The learned Counsel for the petitioner submitted that since the dealership agreement was entered into for 15 years, on account of its premature termination, the petitioner has suffered huge loss. The relationship between the petitioner and the respondents is purely contractual. If the petitioner feels that the respondents have indulged in violation of any of the terms of the agreement causing loss to him, he is entitled to approach the common law Court by claiming damages for the same. The petitioner cannot seek a mandamus for enforcement of a non-existent right against the respondents.

6. Subject to the observations made hereinabove, the writ petition is dismissed. As a sequel, WPMP No. 38974 of 2012 filed for interim relief is disposed of as infructuous.