

Andhra Pradesh High Court - Amravati

The Kurnool Exhibition Society vs The State Of Ap on 12 May, 2023

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE Mr. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE

&

HON'BLE Mr. JUSTICE NINALA JAYASURYA

WRIT APPEAL No.314 of 2023

The Kurnool Exhibition Society, Society regd. under the A.P. Societies Registration Act, rep. By its President T.G. Bharath, S/o. T.G. Venkatesh, Indoor Stadium Complex, Kurnool - 518001

... Appellant

Versus

The State of Andhra Pradesh, Municipal Administration and Urban Development Department, rep. By its Principal Secretary, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District, and others

... Respondents

JUDGMENT (ORAL)

Dt.26.04.2023 (Prashant Kumar Mishra, CJ) Aggrieved by the order dated 03.03.2023 passed by the learned single Judge disposing of W.P.No.3991 of 2023, the petitioner has preferred this intra-court appeal under clause 15 of the Letters Patent.

2. The issue brought before the learned single Judge is in respect of petitioner's right for extension of lease of the municipal/exhibition ground from February to May every year.

3. By the order under appeal, learned single Judge has disposed of the writ petition directing the 2nd respondent-Commissioner, Kurnool Municipal Corporation, to conduct an auction amongst the 7 applicants who have 2 HCJ & NJS, J W.A.No.314 of 2023 applied for lease and then lease out the exhibition ground to the successful bidder according to law; at the same time, allowing the petitioner also to participate in the said auction.

4. The municipal/exhibition ground was leased out to the petitioner about 41 years back as claimed in the writ petition and the same is being extended from time to time. The 2nd respondent appears to have issued an endorsement in June 2018 that petitioner would continue to have the lease of the said municipal ground/exhibition ground subject to conditions. However, despite the said promise, lease is not allowed in favour of the petitioner for the present year and instead the 2nd respondent is seeking to lease out the property to other applicants who have applied for grant of lease.

5. The 2nd respondent argued before the learned single Judge that the Commissioner has got power to lease out any immovable property only upto a period of 12 months and for lease beyond the said period and upto 3 years, the Standing Committee is empowered and, thereafter, for a period of above 3 years and upto 25 years, Government is competent to lease out the property; as such,

Commissioner cannot extend the said lease in favour of the petitioner. Since the 7 applicants have requested for grant of lease of the municipal/exhibition ground, Kurnool, the Corporation has passed a Resolution on 14.09.2022 to conduct auction amongst the 7 applicants including the petitioner.

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H CJ & NJS,
W.A.No.314 of 2023

6. Section 148 (1) & (2) of the Greater Hyderabad Municipal Corporation Act, 1955, which is applicable, governs the disposal of property and interests therein. The same is reproduced hereunder for ready reference:

"148. (1) Subject to the provisions of section 124, the Commissioner may dispose of by sale or exchange any movable property belonging to the Corporation the value of which does not exceed [rupees twenty five thousand] in each instance, or grant for any term not exceeding twelve months a lease of any immovable property belonging to the Corporation or lease or concession of any right of fishing or grazing or of gathering and taking fruit and the like;

Provided that every such disposal, lease or concession made or granted by the Commissioner shall be reported to the Standing Committee within fifteen days."

(2) With the sanction of the Standing Committee, the Commissioner may dispose of by sale or exchange any movable property belonging to the Corporation [the value of which exceeds rupees twenty five thousand but does not exceed such sum as may be specified by the Government by notification, from time to time] in each instance, or grant for any term not exceeding three years a lease of any immovable property belonging to the Corporation or a lease or concession of any such right as aforesaid."

7. The relief sought by the petitioner in the writ petition is based upon the endorsement of the Commissioner dated 21.06.2018 by which the petitioner was informed that no order will be given to others to hold exhibition on the municipal/exhibition ground from the month of February to May every year, as also that Kurnool Exhibition Society cannot issue any permanent orders to hold exhibitions from the month of February to May 4 H CJ & NJS, J W.A.No.314 of 2023 every year, because elections may be held during the said period and many public programmes organized by the Government may also be held. The communication further says that the petitioner can be allowed to hold exhibition only when there are no Government programmes during the said period.

8. A careful reading of the endorsement dated 21.06.2018 issued by the Commissioner, Kurnool Municipal Corporation would reveal that the Commissioner has not extended any promise for grant of lease in favour of the petitioner and rightly so, because there should a Resolution of the Standing

Committee of the Corporation or by the Government if the lease exceeds more than three years period. The petitioner has not submitted copy of the original lease granted in its favour. Thus, there is no material to indicate that the petitioner was granted any lease to hold exhibitions from year to year. In the absence of any such agreement between the petitioner and the Corporation, it is difficult to read any right or entitlement in favour of the petitioner merely on the basis of an endorsement by the Commissioner. As is appearing from the order under appeal, the Municipal Corporation has passed Resolution dated 14.09.2022 to conduct auction amongst the 7 applicants and no exception could be found to such procedure adopted. It is also rightly held that when there are more than one applicants seeking lease of the property even for a period of 12 months, 5 HCJ & NJS, J W.A.No.314 of 2023 then, as per the Resolution dated 14.09.2022, the Commissioner has to conduct an auction and then lease out the property to the highest bidder.

9. Accordingly, in the absence of any lease in favour of the petitioner setting out the terms and conditions of the lease evidencing the petitioner's right to continue to have the lease in its favour on an year-to-year basis, learned single Judge has rightly disposed of the writ petition directing the Commissioner to conduct auction among the 7 applicants who have applied for lease and then lease out the exhibition ground to the successful bidder according to law.

10. We see no reason to interfere with the order under appeal and the appeal is, accordingly, dismissed. No order as to costs. Pending miscellaneous applications, if any, shall stand closed.

Sd/-
PRASHANT KUMAR MISHRA, CJ

Sd/-
NINALA JAYASURYA, J

MRR