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Court : Andhra Pradesh

Decided On : Sep-15-1999

Reported in : 2000(3)ALD630; 2000(1)ALT466

Judge : M.S. Liberhan, C.J. and ;V.V.S. Rao, J.

Acts : [Transfer of Property Act, 1882](#) - Sections 105; [Constitution of India](#) - Article 14

Appeal No. : WA No. 1303 of 1999

Appellant : Union of India

Respondent : Apsrtc and Others

Advocate for Def. : Mr. C.V. Ramulu, SC for APSRTC

Advocate for Pet/Ap. : Mr. B. Adinarayana Rao, SC for CG

Judgement :

ORDER

M.S. Liberhan, CJ

1. The appellant-Union of India has challenged the action of the respondent-A.P. State Road Transport Corporation which is admittedly and concedingly the owner of Stall No.11 of Vijayawada BUS Station in not allowing them to continue their STD Booth installed in the said stall.

2. The appellant is a licensee in respect of the above premises and though the lease period has expired as long back as in 1996, the appellant continued to operate the booth. The learned single Judge dismissed the writ petition, but, however, allowed to continue in the stall till such time the auction in respect of the said premises is finalised but subject to payment of rent at Rs.3,000/- per month.

3. The learned Standing Counsel for the appellant argued that since the Union of India has provided the STD facility in the Bus Station in the public interest, consequently, the respondent is not entitled to have a right to claim or charge licence fee for permitting the premises to be used by the Telecom Department for running the STD Booth. He further contended that the charges fixed by the respondent-Corporation are arbitrary and discriminatory being violative of Article 14 of the [Constitution of India](#) because for the Child Welfare Department of the State Government, they have given the stall at Rs.3.50 ps. per square feet as the licence fee, whereas from the appellant, the charges are sought to be collected at Rs.6,000/- per month and declined to renew the licence to the appellant and asked to participate in the bid along with other bidders.

4. Though we are of the considered view that the case of the appellant to continue to provide the STD facility which has been started in the premises in the public interest at the expense of the Government of India should have been considered by the respondent-Corporation, but the Union of India has got no legal right to compel the licensor to grant the licence for the premises at their terms. It is for the licensor to see at what rate the licence has to be granted for the premises vis-a-vis the public interest involved. No mandamus can be issued to direct the respondent-Corporation to grant the licence in favour of the appellant for a particular amount.

5. The learned Counsel for the appellant then argued that the learned single Judge could not have fixed the licence fee pending finalisation of the auction of the premises in question and ought not to have issued the direction to pay the licence fee after the appellant was able to continue in possession of the licensed premises without any authority or right. We find no ground to interfere in the discretion exercised by the learned single Judge in fixing the rent for use and occupation of the premises by the appellant pending finalisation of auction. It is for the licensee

whether to continue in possession of the premises by paying the licence fee fixed or to vacate the same. The appellant-licensee simply being Union of India cannot take the law into their hands and decide by themselves to vacate the premises as and when they desire even though the licence came to an end. The appellant cannot be permitted to take the law into themselves and it is bound by the law of the land.

6. In the result, the appeal is dismissed, but with costs assessed at Rs.1,000/-. The responsibility for payment of costs shall be fixed on the concerned Officer of the appellant Department who allowed to continue to remain in the licensed premises without any authority.

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