

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1896 OF 2015

ORDER

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This writ petition is filed for a writ of mandamus declaring the action of the respondents in conducting auction in respect of the petitioner's shop alone bearing D.No.11-31-19, Park Raod, Samarangh Chowk, Uphill of Indrakeeladri Shopping Complex, Vijayawada-1 leaving all other similarly situated shops, as illegal and arbitrary and for a consequential direction to the respondents to consider the representation of the petitioner dated 05.01.2015 for extension of lease by enhancing the rent by 50% on the last paid rent.

The case of the petitioner is that he is lessee of the shop bearing D.No.11-31-19, Park Raod, Samarangh Chowk, Uphill of Indrakeeladri Shopping Complex, Vijayawada and that he was running the said for the past 15 years. While so, when the lease period expired, he filed a representation to the 3rd respondent on 05.01.2015 and the 3rd respondent vide letter dated 30.05.2012 directed the petitioner to enhance the rent by 50% for extension of lease. Accordingly, the petitioner along with others agreed to pay the enhanced rent and submitted a representation dated 08.07.2012 to the 3rd respondent to that extent. While so, when the 3rd respondent tried to evict the petitioner, the petitioner filed W.P.No.39877 of 2014 and this Court passed order dated 26.12.2014 permitting the petitioner to continue in the occupation of the subject shop till the successful bidder in the proposed auction is put in possession of the said shop and the petitioner gave an undertaking to that effect. Subsequently, the petitioner made a representation dated 05.01.2015 requesting the authorities to extend his lease by expressing his willingness for enhancing the rent by 50% on the last paid rent. But without considering the same, the 3rd respondent issued auction notification in respect of petitioner's shop on 04.02.2015. It is the case of the

petitioner that nearly 16 members on the hill were running the shops on lease and are being continued. But only petitioner's shop is put to auction though petitioner stands on the same footing.

Heard the learned counsel for the petitioner.

In the present case, when the 3rd respondent tried to evict the petitioner for conducting fresh auction, petitioner filed W.P.No.39877 of 2014 and in pursuance of the orders passed by this Court, the petitioner himself gave an undertaking that he will vacate the shop and deliver the possession of the same for allotment of highest bidder in the auction. Having given the undertaking and since the possession is already taken by the respondents and that the earlier writ petition is also pending for the same cause of action, the petitioner cannot file the present writ petition. More so, once the lease period has expired, no provision is provided for extension of lease. It is the bounden duty of the 3rd respondent to conduct auction in respect of the shops whose lease period has expired.

In view of the undertaking given by the petitioner, no relief can be granted to the petitioner. However, the 3rd respondent is directed to conduct auction in respect of the shops in the same complex, if the lease period of the said shops is also expired.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

Date: 03.02.2015

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