

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.7366 of 2015

Date: 24-03-2015

Between:

G. Srinivasa Reddy and 11 others

.... Petitioners

AND

The State of Telangana, represented by its
Principal Secretary, Municipal Administration,
Secretariat, Hyderabad and 2 others

.... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.7366 of 2015

ORDER:

This writ petition is filed for a *Mandamus* declaring the action of the 2nd respondent in issuing the impugned auction notice vide No.C1/587/3/2014-15, dated 07-03-2015 fixing the auction date on 23-03-2015 for open auction for leasehold rights of the shop located in Vegetable Market, Kalwakurthy Nagarpanchayat, without any prior notice or intimation to the petitioners who are in possession of the said shops since about two decades and without following the procedure prescribed under the law as arbitrary, illegal and violative of principles of natural justice and for a consequential direction to set aside the same as null and void.

2. The case of the petitioners is that they are in occupation of the respective shops located at the Vegetable Market, Kalwakurthy Village and Mandal since 1996 and since then they

are doing their respective business activities in their respective shops and they are leaseholders. It is stated that the leasehold rights of the petitioners are still subsisting and the lease value is being enhanced @ 5% every year and they have been paying the enhanced rate of lease continuously to the 2nd respondent without any default. It is further stated that while so, all of a sudden on 11-03-2015, the 2nd respondent issued auction notice offering leasehold rights of 14 shops located at the premises of Vegetable market area wherein 12 shops are in possession of the petitioners and fixing the date of auction on 23-03-2015. It is also stated that having come to know the said fact, the petitioners approached the respondents 2 and 3 and expressed their readiness to comply the legitimate demands of the respondent Municipality in compliance with prevailing rules and regulations to renew their leasehold rights over the respective shops, but the respondents 2 and 3 did not respond to the same and without giving proper response, demanded the petitioners to leave their shops immediately or else they will be evicted by using force. It is further stated that the petitioners are eking out their livelihood by running their respective shops and without giving any notice, all of a sudden the impugned auction notice was issued fixing the date of auction for leasing out the shops which are in possession of the petitioners. Aggrieved by the same, the present writ petition is filed.

2. Heard the learned counsel for the petitioners, who submits that as the petitioners are in possession of the shops since 1994, which are sought to be auctioned, and paying rents regularly, the respondent Municipality cannot conduct auction without issuing any notice to the petitioners.

3. On the other hand, Sri D. Bhaskar Reddy, learned standing

counsel for the respondents 2 and 3, submits that since the lease of the petitioners expired long back, the respondent Municipality intended to conduct fresh auction and there is no illegality in conducting such auction.

4. A perusal of the writ affidavit does not show that the lease of the petitioners is still subsisting in their favour and the learned standing counsel for respondents 2 and 3 stated that the petitioners are not paying rents regularly to the respondent Municipality. Since no document is filed by the petitioners to show that the lease of the petitioners is still subsisting as of now and no rule or provision of law is brought to notice of the court for extension of lease for further period, no direction can be issued to the respondent Municipality in favour of the petitioners for extending the lease of the petitioners. It is suffice to say that in case the petitioners are interested in continuing in their respective shops, they may participate in the auction to be conducted provided they fulfil the conditions and in case the petitioners will become successful bidders in the auction, they will be continued as such subject to conditions imposed by the respondent Municipality pursuant to the auction notice. Otherwise, the petitioners have to vacate the premises immediately after the auction proceedings are finalized enabling the respondent Municipality to handover the shops which are in possession of the petitioners to the successful bidders. Till such time, the petitioners have to pay the regular rents including arrears of rent, if any.

With the above observations, the writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A. RAJASHEKER REDDY, J

Date: 24-03-2015

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