

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.7198 OF 2015

ORDER:

This writ petition is filed seeking *Writ of Mandamus* declaring the action of the respondent 2 and 3 in not extending the lease period for maximum period of three years as per Leases and Licenses Rules 2003 (for short 'the Rules') and issuing auction notice dated 10.03.2015 to auction the subject site, as illegal and arbitrary and in violation of the Rules and for a consequential direction to the respondents 2 and 3 to extend the lease for another 2 years as per the Rules.

The case of the petitioner is that he is the lessee of the 3rd respondent-temple for a period of one year i.e., from 01.04.2014 to 31.03.2015, in pursuance to the tender notification issued by the 3rd respondent and the same has expired by 31.03.2015. Thereafter, the petitioner made a representation dated 13.03.2015 to the 3rd respondent requesting him for extension of the lease for a maximum period of three years. Meanwhile, the respondents issued present auction notice dated 10.03.2015 in respect of the subject temple site. Hence, the present writ petition is filed.

Learned counsel for the petitioner submits that Rule 4 of the Immovable Properties and Other Rights (Other than Agricultural Lands) Leases and Licenses Rules, 2003 (for short '*the Rules*') provides that in case of immovable properties, lease can be granted upto 3 years. Since the earlier public auction notice issued by the 3rd respondent is for a period of one year from 01.04.2014 to 31.03.2015, the petitioner made a representation to the respondents for extension of lease. But the same is not considered by the respondents.

On the other hand, Sri A.Srikanth Reddy, learned Standing counsel for the 3rd respondent submits that earlier auction notice, in which the petitioner participated, was issued for a period of one year only and petitioner has not challenged the same at that time. After enjoying the lease for a period of one

year, there is no legal right vested in the petitioner for extension of lease. He also submits that Rule 4 of the Rules does not provide that lease period can be extended, but it merely provides that lease can be granted for a period not exceeding 3 years.

In this case, admittedly, petitioner who was declared as successful bidder in the earlier auction was categorically granted lease for a period of one year and admittedly the same was expired on 31.03.2015. He placed reliance on Rule 4 of the Rules, which reads as follows:

“4-(1) In the case of immovable properties such as building and sites to be given or used for residential purposes only; the lease shall be granted. In the case of other immovable properties such as shops, buildings, sites, etc., to be given or used for the purpose of running business and such other rights of usufruct, fishery, collection of coconut pirces, human hair etc., licenses shall be granted.

(2) (a) No lease of immovable property shall be granted for a period exceeding (3) years.

(b) No licence shall be granted for a period exceeding three (3) years.

(3) (a) Where it is proposed to grant lease or licence for a period exceeding the limits specified in sub-rule (2) and (b), the Executive Authority shall obtain the prior permission of the Commissioner before causing publication of the notice under Rule 6 of these Rules duly submitting proposal to the Commissioner.”

In the aforesaid Rule, it is clearly stated that no lease of immovable property shall be granted for a period exceeding three (03) years. The petitioner has also not challenged the earlier auction notice in which he has participated. Only after completion of one year, he has challenged the present notice dated 10.03.2015.

In view of the same, I do not see any merit to entertain the writ petition. Accordingly, the writ petition is dismissed. No costs. As a sequel, miscellaneous petitions, pending, if any shall stand closed.

A.RAJASHEKER REDDY, J

20.03.2015

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