

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.32509 of 2015

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DATED : 06.10.2015

Between :

Dr.A.Gopal Rao S/o.Mangalayya,
Aged about 42 yrs, Shop No.12, GVMC,
Old Municipal Complex, Seethammadhara,
Visakhapatnam.

.. Petitioner

and

State of Andhra Pradesh,
Rep., by the Principal Secretary
Municipal Administration Department,
Secretariat, Hyderabad & others.

.. Respondents

This court made the following :

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ORDER :

The petitioner claims that he was the partner of Sri L. Siva Sankara Rao, who was the leaseholder of the subject premises belonging to the 2nd respondent-Municipal Corporation. The lease earlier granted was expired in the year 2012 and after further extension of lease, the original lessee expired on 14.12.2012. After the death of original lessee the petitioner continued to occupy the said premises, based on a letter given by the wife of the original lessee and the petitioner is not disturbed from occupation till date. The petitioner challenges the notice issued on 18.08.2015 directing the petitioner to vacate Shop No.12, subject premises, and to hand over vacant possession, so that the Corporation can take steps to conduct fresh auction to grant fresh lease hold rights.

2. Learned counsel for the petitioner, contends that there is no requirement to vacate the premises, since the petitioner has not completed the lease period of 25 years and only in case a person completes 25 years of lease period, compulsory eviction would arise and when petitioner is willing to pay enhanced lease amount @ 33 1/3%, there is no justification in asking him to evict the subject premises and to conduct fresh auction.

3. Learned Standing counsel, submits that as directed by this Court in W.P.No.16035 of 2015 dated 06.07.2015 appropriate steps are being taken, wherever the lease period is completed and fresh auction is being held. The decision of single Judge of this Court is upheld by the Division Bench in W.A.No.857 of 2015 and in true compliance of the directions issued by this Court, the impugned notice is issued. The petitioner having completed the lease period, has no right to insist for renewal of lease.

4. At this stage, learned counsel for the petitioner submits that the petitioner is willing to participate in the auction proposed to be conducted, but since so far no proceedings are taken up for conducting of auction, there is no justification to direct the petitioner to vacate the premises, even before auction is finalized. If the petitioner is the higher auction bidder he is entitled to continue in the leased premises. He therefore, submits that subject to determination of appropriate rent, he may be

continued till auction proceedings are finalized.

5. Learned Standing counsel for the respondent-Corporation submits that the petitioner should pay the rent as prevailing in the surrounding areas.

6. Having regard to the above, the writ petition is disposed of, directing the respondent-Corporation to permit the petitioner to continue in the subject premises till the auction proceedings are finalized subject to petitioner paying the rent prevailing in the surrounding shops and the petitioner shall also file an undertaking before the respondent-Corporation within one week from the date of receipt of this order, that he shall vacate the premises as soon as auction proceedings are finalized, if he is not the highest bidder. The respondent-Corporation shall continue the petitioner in the subject premises, till the auction proceedings are finalized. However, the respondent-Corporation shall take immediate steps to complete the auction proceedings within the fixed time frame. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

_____ **P.NAVEEN RAO,J**

06th October, 2015.

Note :Issue C.C., in two days.

B/o.

Rds