

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.290 OF 2012

ORDER

The case of the petitioner is that she is the tenant of 4th respondent-choultry. Even after expiry of the lease period, the respondents have permitted the petitioner to continue as a tenant by extending the lease period from 27.07.2005 to 26.07.2008 @ Rs.6,750/- and from 27.07.2008 to 26.07.2011 @ Rs.10,125/- and from 27.07.2011 to 26.07.2014 @ Rs.15,188/- per month respectively. Though the respondents are entitled to enhance the rents @ 33 1/3%, they have enhanced the rent by 50%. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 4th respondent admitting that the petitioner's lease period was expired and the same was extended from time to time by virtue of proceedings dated 22.09.2011 approving the extension of lease on enhancement of 50% rent on existing rent for a period of three (03) years. The petitioner also paid the enhanced rents from 27.07.2005 to 26.01.2011. But she stopped payment of enhanced rent from February, 2011. It is also stated that the petitioner cannot claim the benefit of enhancement of rent at 33 1/3 % of the existing rent from 27.07.2005 to 26.07.2008 and from 27.07.2008 to 26.07.2011 and from 27.07.2011 to 26.07.2014 respectively and cannot seek recovery of the difference amount from the 4th respondent in the light of the circular dated 21.04.2010 issued by the Commissioner, Endowments-2nd respondent, as the petitioner falls under the category (iv) which clearly states that "where the tenant comes forward to enhance the rent to match the prevailing market rate". In the counter he further states that in the Memo No.20175/Endt.1(2)/2010-1, dated 18.05.2010, it is specifically mention under the Head Subject,

"Endowments lands postponement or deferment of conduct of public auctions of leases of endowments lands or shops-decided to

extend the existing lease period of small and marginal farmers of Endowments Agricultural Lands for a further period of 3years-certain instructions-Issued.”

In the note of the Hon'ble Minister of Endowments Stamps and Registration, it is specifically mentioned that,

“Number of representations are being received from the people's representatives for postponement or deferment of conduct of public auctions of leases of endowments lands as well as shops and establishment of various Temples/Institutions on the plea that the existing lease holders are small and marginal farmers and they have no other alternative lands to eakout their livelihood except the existing leasehold rights.”

The 4th respondent further states that the petitioner is not entitled to the benefit as she is not a small farmer and that she is running cloth show-room. And if the shop is put to public auction, the same will not get less than Rs.25,000/- per month whereas the institution is getting Rs.7,500/- per month in spite of enhancement of rent @ 50%. It is also stated that if the petitioner is not willing to pay the enhanced rent as per the proceedings dated 22.09.2011 issued by the Commissioner, Endowments, the institution is ready to conduct public auction and sought for dismissal of the writ petition.

Heard the learned counsel for the petitioner and Smt K.Lalitha, the learned Standing counsel who made submissions in tune of their pleadings.

It is to be seen that petitioner is questioning the enhancement of rent @ 50% over and above for the period from 27.07.2005 to 26.07.2008 @ Rs.6,750/- and from 27.07.2008 to 26.07.2011 @ Rs.10,125/- and from 27.07.2011 to 26.07.2014 @ Rs.15,188/- per month respectively. But the respondents in the counter categorically stated that the petitioner has paid the rents even after enhancement. More so, it is stated that as per the circular dated 21.04.2010 issued by the Commissioner, the petitioner falls under category (iv) where in it is clearly stated that where the tenant

comes forward to enhance the rent to match the prevailing market rate. The same has to be accepted. The so called proceedings dated 18.05.2010 relied on by the petitioner are only in the nature of executive instructions and they cannot be enforced by issuance of writ of mandamus. In view of the above facts and circumstances, I am inclined to grant any relief.

Accordingly, the writ petition is dismissed. However, it is open for the 4th respondent to go for fresh auction for grant of lease hold rights in accordance with law, if the lease period of the petitioner is expired. No costs.

As a sequel, miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER

REDDY,J

Date: 07.10.2015

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