

THE HONOURABLE MR JUSTICE A.V.SESHA SAI

WRIT PETITION No.19475 of 2009

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ORDER

This writ petition, filed under Article 226 of the Constitution of India, challenges the auction notice dated 25.08.2009, issued by the third respondent-Divisional Engineer Operations, Begum Bazar, Hyderabad.

2. Heard learned counsel for the petitioner and learned Standing Counsel for the respondents apart from perusing the material available before this Court.

3. The case precisely in the writ petition is that the third respondent without issuing any demand notice for an amount of Rs.4,42,327/- has straightaway issued the auction notice and that the same is arbitrary and violative of the principles of natural justice. It is also the case of the petitioner that the cost of the subject hotel is worth about cores of rupees and it is inequitable to auction the petitioner's hotel for the meagre amount of Rs.1,18,018/-. It is also the case of the petitioner that the amount stated in the impugned auction notice is exaggerated without taking into account the payments made by the tenant. It is also the case of the petitioner herein that there is latches on the part of the respondents to issue auction notice without taking into account the previous notice issued by them. It is also pleaded by the petitioner herein that the petitioner is ready and willing to pay the bonafide arrears to the respondents.

4. This Court while ordering notice before admission on 14.09.2009, granted an interim stay on condition of the petitioner

depositing an amount of Rs.2,00,000/-. Subsequently, the interim order was made absolute on 26.04.2010, subject to the petitioner depositing a further sum of Rs.50,000/-. According to the petitioner, the said amounts were deposited by it.

5. In the counter affidavit filed on behalf of the respondents, it is stated that the petitioner herein paid a sum of Rs.2 lakhs on 27.10.2009 and apart from the said amount, the petitioner earlier has paid a sum of Rs.59,480/- and after deducting the amount paid by the petitioner, still a sum of Rs.1,99,167/- is due from the petitioner.

6. A number of contentions have been raised by the learned counsel for the petitioner as well as the learned Standing Counsel for the respondents. As there is a controversy with regard to the quantum of amount, this Court deems it appropriate to ask the petitioner herein to make a representation before the respondents for redressal of its grievance. In view of the same, this Court does not propose to go into further merits of the matter. It is also not in dispute that major quantum of the amount has already been paid by the petitioner herein. In view of the said reasons, this Court finds it reasonable to permit the petitioner herein to make a representation for the consideration of the respondents herein.

7. For the aforesaid reasons, the Writ Petition is disposed of, permitting the petitioner herein to submit a representation before the respondents herein for redressal of its grievance, within a period of one month from the date of receipt of a copy of this order, and if any such representation is made within the time stipulated above, the same shall be considered by the respondents within a period of three months thereafter. Till such exercise

attains finality, no coercive action shall be taken against the petitioner herein. It is also made clear that in the event of failure to submit the representation by the petitioner as stated supra, the above arrangement shall not ennure to the petitioner herein. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.V.SESHA SAI, J

27th January, 2015

sj