

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT APPEAL No.331 OF 2015

DATED:27.04.2015

Between:

G.Nagappa and others.

...Appellants.

And

The State of Andhra Pradesh,

Represented by its Principal Secretary,

Municipal Administration and Urban Development Authority,

Hyderabad and others.

... Respondents.

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

-

WRIT APPEAL No.331 OF 2015

JUDGMENT: (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

This appeal is sought to be preferred and admitted against the judgment and order of the learned Trial Judge, dated 01.04.2015, by which the learned Trial Judge

has not granted the relief as prayed for.

The factual aspect of the matter, which is alleged before us, is that the appellants – writ petitioners occupied Shop Nos.C2 to C6 of Municipal Complex, Yemmiganur Town, Kurnool, under a lease. The appellants have been lessees for a period of 39 years. The lease period is over. The appellants made an application for granting renewal of the lease on the strength of G.O.Ms.No.56, dated 05.02.2011. The relevant portion of the G.O., on which the appellants have placed reliance, is as follows:

“The Municipal Council may renew the lease of immovable properties for a period of three years at one time and with the prior sanction of the Government renew the lease for a period exceeding three years and not exceeding twenty-five years at a time without conducting public auction, if the present lessee agrees to renew the lease in his favour at the rent as fixed hereunder and for revision of the rent once in three years as per the procedure mentioned therein.”

Learned counsel for the appellants submits that the learned Trial Judge ought to have directed the Municipal Authority to decide the application for grant of renewal, instead His Lordship has been pleased to allow the respondents to proceed with the auction as proposed and thereby the petitioners right to have renewal of the lease is seriously affected. According to him, the aforesaid provision of the G.O. creates a right for renewal and the same cannot be taken away without considering their application by the impugned order of the learned Trial Judge.

The question is whether the petitioners' application for grant of renewal should be examined on the given facts and circumstances of the case or not. In other words, whether the direction of the Hon'ble Trial Judge to proceed with the auction ignoring the application of the petitioners for renewal on the strength of the aforesaid G.O., is correct or not.

It appears to us reading above G.O. that if any person has enjoyed the

leasehold interest for a period of 25 years, he/she is not entitled to make an application for renewal, as this period is maximum whether before or after issue of above G.O. The aforesaid portion of the G.O. cannot be construed to defeat the provision of law, viz., Rule as mentioned in Section 14 of the Transfer of Property Act, 1882. If the appellants' prayer is entertained, then the petitioners - appellants will be able to enjoy the property for ever, as no third party even the owner cannot get possession because of probable continuance of lease on renewal successively. We therefore think that the learned Trial Judge has taken correct decision allowing the writ petitioners to participate in the fresh auction. We do not find any reason to interfere with the same.

Therefore, the writ appeal is dismissed.

Pending miscellaneous petitions, if any, shall stand closed. There will be no order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

27.04.2015

GJ

