

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.36309 of 2015

Dated 12.11.2015

-

Between:

-

K.Gurucharan and 5 others

... Petitioners

and

-

Mancherial Municipality

Adilabad District

rep. by its Commissioner

...Respondent

Counsel for the petitioners: Mr.C.Raghu

Counsel for the respondent : None appeared

The Court made the following:

Order :

This is the second round of litigation indulged in by the

petitioners, who are lessees of the respondent and whose term of leases has expired. When an auction notice was issued on 23-03-2012, the petitioners along with others filed WP.No.8654 of 2012 whereunder they have raised the plea that under Rule 12 (e) of the Receipt and Expenditure Rules, 1968 (for short 'the Rules'), they have a right of renewal of lease by paying the enhanced rent @ 33.1/3% over the existing lease amount. This Court, while dismissing the said Writ Petition in unequivocal terms held that the said Rule will apply only upto 25 years of lease period and not beyond that and that therefore, no Mandamus can be granted for extending the lease. Anticipating issue of a fresh auction notice, the petitioners have filed this Writ Petition.

At the hearing, Mr.C.Raghu, learned Counsel for the petitioners, submitted that in view of the finding rendered by this Court in W.P.No.8654 of 2012 that lease period of 25 years has expired, the petitioners will not be in a position to raise a contra plea in this regard. He has further submitted while some of the petitioners, who have not completed 25 years of service, may file a review petition, under proviso to Rule 12 (4) of the Rules, if the highest amount fetched in the auction is less than the existing rent being paid by the petitioners, the lease in favour of the latter shall be granted.

In my opinion, this plea having not been raised in the previous Writ Petition cannot be permitted to be raised in the present Writ Petition. However, the petitioners shall be free to approach the respondent with a representation in this regard. They are, however, not entitled to retain possession on this plea. In the event the highest bids offered in the open auction are less than the leases being paid by the petitioners at present, the respondent shall consider the request of the petitioners for grant of further lease in terms of the above-mentioned Rule.

Subject to the above observations and directions, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.No.46718 of 2015, filed by the petitioners for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 6th November, 2015

LUR