

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.5766 and 5768 of 2012

COMMON ORDER:

These two Writ Petitions are being disposed of by this common order as they relate to the same cause of action.

The petitioners are leaseholders of the shops situated in Municipal Complex, Madduru Subba Reddy Nagar, Kurnool Municipal Corporation, Kurnool. The lease period of the shops granted initially was extended from time to time enhancing the rent by 33½%. When there was a threat to the possession in view of G.O.Ms.No.120, dated 31.03.2011, the present Writ Petitions were filed.

This Court, by order dated 02.03.2012, granted *status quo* with regard to the possession of the petitioners. Seeking vacation of the said order, vacate petitions were filed in both the Writ Petitions along with counter affidavits stating that the petitioners have been in possession of the shops for more than 25 years and this Court in W.P.No.6354 of 2009 directed the Chairpersons/Councils/Municipal Commissioners to go for public auction of all municipal properties wherever the leases were continued for a period of more than 25 years. The Government issued G.O.Ms.No.56, dated 05.02.2011, and G.O.Ms.No.120, Municipal Administration and Urban Development (J1) Department, dated 31.03.2011, directing the

Municipal Commissioners in the State not to grant lease beyond 25 years without conducting public auction. In the circumstances, since the petitioners were holding lease for more than 25 years, action was sought to be taken for conducting public auction.

There is no dispute that the leases in favour of the petitioners came to an end by the time the petitioners filed the Writ Petitions. Pursuant to the law laid down by this Court in W.P.No.6354 of 2009 the Government wanted to lease out the shops by public auction and accordingly the Government issued Government Orders. As per Rule 12(1) of the Regulation of Receipts and Expenditure Rules, 1968, municipal property can be leased out for a period of three years at a time and with prior sanction of Government, lease can be extended beyond three years up to a period of 25 years without conducting public auction. This Court held that as per Rule 8(2) of the Municipal Corporation of Hyderabad (Acquisition and Disposal of Immovable Property) Rules, 1970, the Municipal Corporation is bound to conduct public auction to lease out the shops and the Government has no power to renew the lease beyond the period of 25 years. In view of the same, a circular in Roc.No.14583/09/N1, dated 15.06.2011, and Memo No.18823/J1/2008-1, dated 17.11.2009, was issued directing all the Commissioners in the State to apprise the orders of this Court for leasing out the shops by public auction wherever the

properties were given on lease and the lessees have completed the period of 25 years.

In view of the above, the relief sought for in these Writ Petitions cannot be granted and it is open to the third respondent Corporation to lease out the shops by way of public auction and it is open to the petitioners to participate in the said public auction, if they so desire.

The Writ Petitions are, accordingly, disposed of. The miscellaneous petitions pending in these Writ Petitions, if any, shall stand closed. There shall be no order as to costs.

01.12.2016
vs



(A.RAMALINGESWARA RAO, J)