

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.554 of 2016

Date:06.01.2016

Between:

K.M.Ranganayakulu,
S/o K.M.Pedda Pullanna and 10 others.

..... Petitioners

And:

The State of A.P., repled, by its
Principal Secretary, Municipal Administration
Department, Hyderabad and two others.

.....Respondents

Counsel for the Petitioner: Mr. Mahadeva Kanthrigala

Counsel for Respondent No.1: AGP for Municipal Admn.
(AP)

The Court made the following:

ORDER:

The petitioners, who are the out-going lessees of the Municipal Shopping Complex, Gooty, Anantapur District, filed this Writ Petition feeling aggrieved by separate, but identical notices, dated 03.12.2015, issued on behalf of respondent No.2, directing them to handover vacant possession of the shops by 31.12.2015 to enable respondent No.2 to re-auction the shops as per Resolution No.783, dated 29.10.2015.

On the eve of expiry of the leases of the petitioners, the Commissioner of respondent No.2 has issued the impugned notices to the petitioners to indicate their willingness for renewal of the leases on their paying the enhanced rent at 33 1/3% over the existing rent.

Accordingly, the petitioners communicated their willingness. However, by the impugned notices, the Commissioner of respondent No.2 has directed the petitioners to handover vacant possession of the shops for conducting a fresh auction. Assailing these notices, the petitioners filed this Writ Petition.

At the hearing, Mr. M.D.Saleem, learned Standing Counsel for Municipalities (Andhra Pradesh), appearing for respondent No.2, placed before the Court a copy of Municipal Council Resolution No.783, dated 29.10.2015, in Telugu, which on true translation reads as under:

“Since the shops are in dilapidated condition, it is resolved to reconstruct the same and re-auction thereafter.”

A perusal of the impugned notices issued by the Commissioner of respondent No.2 shows that the core decision taken in Resolution No.783, dated 29.10.2015, viz., that re-auctioning after reconstruction, is not mentioned in the said notices. Thus, in one way the impugned notices issued by the Commissioner of respondent No.2 are misleading.

Though the learned counsel for the petitioners has disputed that the shops are that old which can be termed as being in dilapidated condition, it is not appropriate for this Court to sit in appeal over the decision of the Municipal Council on the condition of the Shopping Complex.

If the Municipal Council has genuinely felt that the shops have become too old to be allowed to exist without reconstruction, this Court is not inclined to interfere with such decision. Therefore, in the light of the above-mentioned resolution, this is not a fit case to interfere with the said resolution. It is, however, made clear that if for any reason respondent No.2 does not remove the existing Shopping Complex and reconstruct, and instead, it seeks to re-auction in the same condition as the shops are presently existing, it shall first give an option to the petitioners to continue as lessees by paying the enhanced

rent at 33 1/3% over the existing rent. Conversely, if respondent No.2 wants to remove the existing shops and reconstruct the same, it is entitled to do so and in such event, the petitioners shall handover the vacant possession of the shops within one month from today.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, W.P.M.P.No.685 of 2016 shall stand disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*06th January, 2016
DR*