

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.18941 of 2012

Order:

The petitioners are the lessees of Municipal shops of the third respondent situated opposite to bus stand. It is their case that public auction was conducted on 14.12.1993 and shops were allotted for a period of three years and the same was approved by resolution of the third respondent dated 29.12.1993. By subsequent resolution dated 30.06.2009 the leases were renewed for a further period of three years by enhancing the rent by 33 1/3%. They submitted a representation seeking to continue the shops without any enhancement of rent and a resolution was passed on 21.06.2010 permitting the petitioners to pay the lease amount as per the old rates. The third respondent issued proceedings on 10.05.2012 directing the petitioners to pay arrears of lease amount and also proposing to conduct public auction on the ground that the lease exceeded the period of 25 years. The petitioners submitted a representation to withdraw the proposed public auction. Another notice was issued on 11.06.2012 without considering the representation of the petitioners. The petitioners submitted another representation on 21.06.2012 informing the third respondent that they are willing to enhance the rent by 33 1/3%. However, when notification for conducting public auction was issued on 20.06.2012, the present Writ Petition was filed.

This Court, by order dated 26.06.2012, granted interim stay of auction for a period of two weeks and the said order was not extended. In spite of the same, no public auction was conducted and the petitioners have been continuing.

The third respondent filed a counter affidavit stating that the petitioners have been continuing for more than 33 years and the same was admitted in their representation dated 28.05.2012. The Government issued G.O.Ms.No.56 dated 05.02.2011, as per which there cannot be any renewal of shops which have been continuing for the last 25 years and the leases have to be granted only after public auction. The said Government order was issued pursuant to the orders passed by this Court in W.P.No.6354 of 2009 dated 25.08.2009. Since the petitioners have been continuing for more than 25 years, the shops are put to auction and it is open to the petitioners to participate in the said auction.

Though the learned counsel for the petitioners denied the occupation of the shops for more than 25 years, as could be seen from the averments made in the counter affidavit filed by the third respondent the petitioners themselves admitted in their representation dated 28.05.2012 of their continuance for more than 33 years. Now the Government issued G.O.Ms.No.56 dated 05.02.2011, pursuant to the orders passed by this Court in W.P.No.6354 of 2009 dated 25.08.2009, proposing to conduct public auction in respect of the municipal properties under lease beyond the period of 25 years. In view of the existing rule position, it cannot be said that the action of the third respondent in proposing to conduct public auction is bad in law.

The Writ Petition is, accordingly, dismissed. However, liberty is given to the petitioners to participate in the public auction as and when the third respondent conducts the same. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 01.11.2016
Nsr

