

THE HON'BLE SRI JUSTICE PRAVEEN KUMAR

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WRIT PETITION No. 19844 of 2016

ORDER:

Heard learned counsel for the petitioner and Sri N.Praveen Kumar, Government Pleader for Municipal Administration.

There is no necessity to put the un-official respondent on notice as this Court is not venturing to adjudicate the issue on merits.

The present writ petition came to be filed seeking issuance of writ of mandamus to declare the resolution No.361, dated 31.05.2016 passed by the fourth respondent-council and Notice No.A1/10151/2011 dated 13.06.2016 issued by the third respondent insofar as putting Shop No.15 situated at Gandhi Chowk, Sadashivpet Town in public auction, as illegal and arbitrary; and consequently direct the respondents to continue the petitioner as lessor of the said shop on par with other shop holders on enhancement of 33.1/3% rent as per the existing rules.

A perusal of the material on record would show that earlier the petitioner filed W.P.No.10731 of 2011 seeking issuance of mandamus declaring the proceedings No.A1/2024/2008, dated 25.01.2011 issued by the third respondent in allotting shop No.15, Municipal Shopping Complex, Sadashivpet, Medak District to the fifth respondent therein, as illegal and arbitrary. By an order dated 12.09.2011 this Hon'ble Court passed the following order:

“For the above mentioned reasons, the impugned proceeding of the Commissioner of respondent-3-Municipality cannot be sustained and the same is accordingly quashed. Respondent No.3 is directed to

consider the petitioner's offer by passing appropriate resolution within a period of one month from the date of receipt of the order. Respondent No.5 is given one month's time from today to handover vacant possession of shop No.15, failing which respondent No.3 shall be free to take vacant possession of the shop from respondent No.5"

Thereafter, fifth respondent therein filed W.P.No.117 of 2013 questioning the action of the respondents in trying to continue the sitting tenants without issuing any notification for conduct of public auction in respect of shops in Municipal Shopping Complex, Gandhi Road, Sadashivpet, Medak District. By an order, dated 27.01.2016, this Court held as under:

"In the light of the above facts and the submission of the learned counsel, the writ petition is disposed of with a direction to respondent No.3 to take a decision before 31.03.2016 as to whether it proposes to continue the existing lessees by enhancing the existing rent by 33.3% or to put the shops to auction as per G.O.Ms.No.56, dated 05.02.2011."

Subsequent thereto, the impugned order came to be passed. It is the case of the petitioner that this Court gave a direction to the third respondent to take decision before 31.03.2016 as to whether it proposes to continue the existing lessees by enhancing the existing rent or to put the shops to auction, but for the reasons best known the shop of the petitioner has been omitted while extending the lease of other shops. It is his case that the said order came to be passed only on the ground that he approached this Hon'ble Court.

Learned Standing Counsel for the Corporation submits that though notice was issued but not auction would be conducted till the same is ratified by the Government. He further submits that

no coercive steps will be taken till the same is approved.

Having regard to the above circumstances, the respondent authorities are directed not to take any coercive steps for eviction of the petitioner till the decision of the council is approved by the Government. It is needless to mention that the petitioner is always at liberty to make an appropriate application before the concerned for extension of lease, in which event the same shall be dealt with in accordance with law.

With the above direction, the writ petition is disposed of.
No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE PRAVEEN KUMAR

21.06.2016
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