

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.20930 OF 2012

ORDER:

This writ petition is filed seeking to declare the action of the 4th respondent-Panchayat Secretary, Sultanabad Gram Panchayat, in not entering into the lease agreements with the petitioners in respect of the allotted shops in question situated at the backside of Rajiv commercial vegetable market, old bus stand, Sultanabad, Karimnagar District, in accordance with the Gram Panchayat Resolution dated 27-09-2005 and the orders of the 1st respondent, dated 16-05-2006, as being illegal, arbitrary and consequently direct the 4th respondent to enter into the lease agreements with the petitioners in the respect of the shops in question.

2. The case of the petitioners is that some of the local un-employed youth including the petitioners were doing petty business in the vacant land of the Gram Panchayat situated at the backside of Rajiv commercial vegetable complex. It is seems on a proposal mooted out by the petitioners and others, the Gram Panchayat passed a

resolution dated 27-09-2005, pursuant thereto, 20 local un-employed youth including the petitioners constructed 20 small shops consisting of 10' x 7' with their own money by investing an amount of Rs.1,00,000/- for each shop. That after completion of construction of the shops in question, the 4th respondent-Gram Panchayat, with the permission of the 1st respondent-District Collector, Karimnagar, allotted the shops in question to the petitioners at a rent of Rs.75/- per month, with a rider to enhance 10% of the rent for every three years and they are in possession of the respective shops in question by paying the rents regularly without any default. That the present rent is enhanced to Rs.165/- per month.

3. The grievance of the petitioners is that though they are in possession of the respective shops in question, the 4th respondent-Gram Panchayat is not entering into the lease agreements with the petitioners on one pretext or the other. Hence, this writ petition.

4. Counter affidavit is filed by the Panchayat Secretary of Sultanabad Gram Panchayat-4th respondent wherein it

is stated that the shops in question were leased for a period of three years as per the Resolution dated 27-09-2005 of the Gram Panchayat and in view of the consequent orders passed by the 1st respondent, the lease period extended upto July, 2011. That thereafter the lease period was not extended as there is no provision to extent the lease beyond a period of three years and the petitioners are illegally continuing in the shops by paying a meagre amount of Rs.192/- per month as rent. That if the shops in question are put to public auction, the Gram Panchayat will get revenue and, therefore, the Gram Panchayat has taken steps to vacate the petitioners who are in possession of the shops without any valid lease agreements. It is denied that the petitioners have invested Rs.1,00,000/- to each shop, but as per the records, 6 petitioners have deposited an amount of Rs.65,000/- each for construction of shops and the remaining petitioners have not deposited any amounts. That as per GO Ms.No.215 PR & RD (Pts.III) Department, dated 25-06-2001, open auction has to be conducted for the said

shops, every one year. That since the lease period of the petitioners in respect of the shops is over by 10-08-2011, the shops have to be put to open auction. The counter affidavit filed by the 2nd respondent-District Panchayat Officer is also on the similar lines as the one filed by the 4th respondent, hence need not be reiterated.

5. Reply affidavit is filed by the 1st petitioner wherein it is stated that the petitioners themselves formed into a group and collected amounts and constructed the shops by engaging the workers and there is no involvement of the Gram Panchayat in the process, except giving permission to construct the shops and after construction of shops, Gram Panchayat took over possession and after getting administrative sanction from 1st respondent, put the petitioners into possession of the shops and collecting rents from the year 2008. That the respondents are trying to evict the petitioners by inventing one reason or the other for the reasons best known to them.

6. Heard the learned counsel for the petitioners, the learned Government Pleader for Panchayat Raj and Rural

Development and the learned Standing Counsel for the respondents 2 to 4.

7. It is to be seen that the petitioners could not point out any valid reasons or any justification shown for holding over the shops beyond the lease period, when admittedly the lease period in respect of the shops occupied by them is over by 10-08-2011. There is no resolution of the Gram Panchayat to extent the lease period of the petitioners to continue in the shops after 2011. For the last 6 years, the petitioners have been continuing in the shops without any lease in their favour by a paying a rent of Rs.192/- per month. No right, muchless any indefeasible right is shown to be accrued in favour of the petitioners.

8. Learned Standing Counsel for the respondents produced copy of the order dated 22-02-2017 passed by the Division Bench of this Court in WA No.205 of 2017 wherein this Court in an identical case upheld the action of the Gram Panchayat to put up for auction the petty shops located inside the Gram Panchayat area, wherein

also the petitioners therein took a plea that they constructed shops in the year 2001 at their own costs and even after continuation in the said shops for more than 10 years, still the petitioners, by way of filing a writ petition, sought to continue their lease, which was dismissed and confirmed by the Division Bench in the above writ appeal.

This case is no exception and fall in the same lines. The petitioners herein cannot contend that they would continue in possession of the shops in question perennially.

9. In the circumstances, I do not see any merit in the writ petition and it is accordingly dismissed. However, having regard to the fact that the petitioners are continuing from the year 2008 onwards, the petitioners are granted six months time to vacate from the shops in their possession and hand over vacant possession of the shops to the 4th respondent, subject to condition of paying rents and payment of arrears of rent, if any, in advance. Thereafter, the 4th respondent to take steps to put the shops to public auction. Needless to say that the

petitioners can also participate in the said open auction, if so advised. As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

A.RAJASHEKER REDDY, J

Dated: 08-06-2017
NRG



HON'BLE SRI JUSTICE A.RAJASHEKER REDDY



WRIT PETITION No.20930 OF 2012

//WEB//

Date: 08-06-2017

NRG

