

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WP No.21882 OF 2017

ORDER ::

This writ petition is filed assailing the auction notice dated 30-6-2017 issued by the 2nd respondent for grant of lease in respective of premises shop No. 9 situated at DSN (New) complex, Chinamushidiwada, Visakapatnam, as being illegal , arbitrary, violative of principles of natural justice and consequently to pass appropriate orders to secure the ends of justice.

2. The case of the petitioner is that he is the lessee of the shop in question from 01-04-2014 to 31-03-2017 for a period of three years and has been paying rents without any default to the 2nd respondent. As the lease period was coming to an end, the authorities sent a letter dated 14-12-2016 to the petitioner to express his willingness to continue in the shop on payment of enhanced rent, as per the guidelines issued in GO Ms.No.56, MA and UD (J1) Department, dated 05-02-2011. Petitioner replied to the same expressing his willingness to continue in the shop at enhanced rent in terms of guidelines issued in the said GO. It appears on a complaint given by some third party that the petitioner is doing business of selling meat in the shop, contrary to the terms of lease deed entered into by him with the 2nd respondent, the 2nd respondent vide order dated 19-06-2017, by way of an endorsement rejected the application of the petitioner for renewal of lease on the ground that

petitioner was doing abolished meat business in the leased shop and accordingly directed to handover the premises on or before 30-06-2017 to the Tax Inspector of Ward No.17. Against this order, the petitioner made representation dated 28-06-2017 to consider his earlier representation dated 19-4-2016 for extension of lease period.

3. The grievance of the petitioner is that without considering his representations made on 19-04-2016 and 28-06-2017, the respondents proceeded to conduct open auction in respect of the shop in question and accordingly issued public auction notice dated 30-06-2017. Hence this writ petition.

4. Learned counsel for the petitioner submits that though the petitioner made representations to extend the lease expressing his willingness to enhance the rent in terms of GO Ms.No.56 dated 05-02-2011, the respondents singled out the petitioner and refused to extend the lease without any and just cause, the petitioner is entitled for extension of lease in respect of the shop in question. On the other hand, learned standing counsel for the respondents 2 and 3 submitted that the petitioner was doing meat business, contrary to the terms of lease, petitioner's request for extension of lease was not considered. It also submitted that without questioning the order dated 19-06-2017, which directed the petitioner to vacate the leased premises and having allowed that order to become final, it is not open for him now to challenge the impugned auction notice.

5. It is to be seen that the petitioner, though, expressed his willingness to continue in the shop in question on enhanced rent, as per the terms of GO Ms.No.56, dated 05-02-2011, a perusal of the term of the lease agreement, one of the conditions, among others is that the lessee is prohibited from carrying business in sale or storing of meat, beef, fish, coal, lime or explosive etc. Inasmuch as the petitioner is stated to be running meat business, contrary to the terms of the lease, the lessor has the option to extend or not to extend the lease and the lessee cannot seek extension of lease as a matter of right. In this case, the petitioner has not challenged the order dated 19-06-2017 passed by way of "Endorsement" by the 2nd respondent. The said order directing him to vacate the shop in question has become final. The petitioner having allowed the order dated 19-06-2017 to become final cannot now stall the respondents from putting the shop in question to open public auction.

6. In the circumstances, there are no merits in the writ petition and it is accordingly dismissed. As sequel to the dismissal of the writ petition, miscellaneous petitions, if any pending in this case shall also stand dismissed. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

Dated: 04-07-2017
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