

HON'BLE SRI JUSTICE S.V.BHATT

W.P. Nos.8223 AND 8429 OF 2012

COMMON ORDER:

Heard Mr.T.N.M.Ranga Rao for petitioners, the Assistant Government Pleader (Panchayat Raj) and Mr.Seshadri for Gram Panchayat.

The petitioners pray for the following reliefs in these to writ petitions.

W.P.No.8223 of 2012:

“...Writ of Mandamus declaring the action of respondents 3 and 4 in trying to evict the petitioners from their respective premises ignoring the proceedings Rc.No.1880/2009-A4 dated 27.06.2009 issued by the 2nd respondent and without considering the representation dated 27.02.2012 made by the writ petitioners, as illegal, arbitrary and violation of the Article 19-G and 21 of the Constitution of India and violation of principles of natural justice consequently direct the respondents to allow the petitioners to continue in their respective premises by receiving the 15% enhanced rental amount as per the proceedings Rc.No.1880/2009-A4 dated 27.06.2009 of the 2nd respondent...”

W.P.No.8429 of 2012:

“...Writ of Mandamus declaring the action of respondents 3 and 5 in issuing the auction notice dated 23.03.2012 in Eenadu daily, contrary to the terms and conditions of the proceedings of the 2nd respondent vide Rc.No.1880/2009-A4 dated 27.06.2009 and without considering the representation of the petitioners dated 27.02.2012 and also after knowing the interim orders granted by this Hon'ble Court in WPMP No.10422/2012 in W.P.No.8223/2012 dated 22.03.2012, as illegal, arbitrary and violation of Article 14, 19 (i)(g), 21 & 299 of

Constitution of India and violation of principles of natural justice, consequently direct the respondents to allow the petitioners to continue in their respectively premises by receiving the `5% enhanced rental amount as per the proceedings Rc.No.1880/2009-A4 dated 27.06.2009 of the 2nd respondents...”

To appreciate the basis on which the writ prayers are canvassed, I find it useful to excerpt the operative portion of communication dated 27.06.2009 which reads thus:

“The above 1st cited, the Porumamilla Grama Panchayat has passed Resolution No.71 dated 31.03..2009, the present leased holders and who are in Mandabavi rooms and Gandhi Centre rooms for rent, their requests considered for highest bidder in the years i.e.2009-10 to handover the same for three years i.e.2011-2012 after that 15% high amount which ever wants in them.

After the above cited 3 and 4 the Gram Panchayat passed resolution as letter of Secretary, Panchayat Porumamilla Gramapanchayat, and as per recommendation of Divisional Panchayat Officer, Rajampet, to give 9 rooms at Gandhi Centre and 8 rooms at Mandabavi in the Gramapanchayat for leased holders from 2009-10 to 2011-12 at present rate i.e. for three years, after completion of lease period with 15% high amount which ever wants required to issue orders.

Hence as per Resolution No.71 of Porumamilla Gram Panchayat, Porumamilla Mandal, dt.31-03-2009, Letter of Panchayat Secretary, Porumamilla Grama Panchayat, and as per recommendations of Divisional panchayat Officer, Rajampet. In Grampanchayat 9 rooms at Gandhi centre lease holders and 8 rooms at Mandabavi lease holders to give for rent from 2009-10 to 2011-12 on lease for three years, after completion of three years with 15% high amount which ever wants to given them, if any body not interested and went way, that rooms to be conduct auction.

Sd/- K.P.Abdul Hameed Khan
District Panchayat Officer,
Kaadapa.”

A bare reading of the communication dated 27.06.2009 shows that the District Panchayat Officer/2nd respondent without referring to source of power or the circumstances under which such a communication is sent, directed Gram Panchayat to allow petitioners to continue as lease holders for the slab period 2009-10, 2011-12 and also for a further period of three years with 15% increase on the rent. The petitioners in 2012 wanted consideration of the petitioners' cases for a further period of 3 years as well. When the writ petitions are heard, Mr. T.N.M. Ranga Rao for petitioners fairly submits that even assuming for a while that the prayer was accepted on the date of filing of the writ petitions, the outer limit to which the petitioners would have persuaded this Court to continue petitioners as lessees up to 2015-16. Since 2015-16 is over, he requests the Court to dispose of the writ petitions by giving liberty to petitioners to participate in the auction proposed to be conducted by Gram Panchayat for creating licence or lease of shop rooms. Mr. Seshadri submits that if the petitioners file undertaking to vacate the premises and pay the amounts due as on date, the Gram Panchayat will not have objection to permit the petitioners to participate in the auction. The Assistant Government Pleader for Panchayat Raj submits on oral instructions that the proceeding on which the writ petitions are filed is not operating, for the District Collector on a representation filed by the villagers, has set aside the proceeding. Be that as it may, this Court would have been constrained to take note of the objections had the petitioners pressed for the writ prayers. Since the grievance is limited, I am satisfied that the writ petitions can be disposed of by this order:

a) the petitioners are directed to file undertaking within four weeks from the date of receipt of a copy of this order before the 3rd respondent to the effect that the petitioners have cleared the lease amount payable to Gram Panchayat and/or prepared to vacate and hand over vacant possession of respective shops to the successful bidders in the auction the Gram Panchayat proposed to conduct in this behalf.

b) To afford a last chance to petitioners in clearing dues, if any, the petitioners are given three weeks time from today to pay the arrears and thereafter file the undertaking. If the undertaking is filed and the 3rd respondent is satisfied with the content of the undertaking/affidavit, the 3rd respondent permits the petitioners to participate in the auction scheduled to be held in this behalf.

c) The petitioners shall hand over possession to the highest bidder as undertaken by them.

d) If the petitioner(s) are the successful bidders in the auction on the terms settled in the auction, such successful petitioner(s) be allowed to continue possession of same shop.

e) If the petitioners do not file undertaking as directed by this Court within the time stipulated, the 3rd respondent is given liberty to evict the petitioners summarily, for their possession is protected by interim orders.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT,J

Date: 24.01.2017
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