

Writ Petition No.1324 of 2013

ORDER:

The relief sought for in this writ petition is to declare the proceedings of the 3rd respondent dated 07.01.2013, in directing the 4th respondent to conduct an open auction in respect of the petitioners' shops constructed at Vegetable Market, Old Bus stand, Sultanabad, Karimnagar District, as arbitrary and illegal.

The petitioners herein, 27 in number, claim to have constructed shops on Panchayat land at the Vegetable Market in the old bus stand of Sultanabad in the year 2001 with their own funds, and to be carrying on petty business thereat. They place reliance on resolution No.23 of the Gram Panchayat wherein it is recorded that the lease, for the 28 shops, expired on 31.03.2006; these shops were sought to be re-auctioned as per the order of the District Panchayat Officer dated 02.12.2008; a notice was issued to the existing leaseholders intimating them that they have to deposit Rs.10,000/-, and pay Rs.15/- per month, as rent; and the lessees had replied that they had constructed their shops with their own funds, and had requested that, since the cost of construction of Rs.11,280/- was incurred by them in the year 2004 and the shops were constructed by them with their own funds, these shops should be allotted to them without insisting on any deposit. It is their case that, when they had constructed shops in the year 2001, Sultanabad was a minor Gram Panchayat, and it is only because the Gram Panchayat did not have any funds available with them that the petitioners were permitted to construct small shops with their own funds, and to carry on business thereat.

Sri P.Venkanna, learned counsel for the petitioners, would submit that, since the petitioners have constructed their shops with their own funds, that too when the Gram Panchayat was a minor Gram Panchayat in the year 2001 and did not have the wherewithal to construct shops on

its own, they cannot now be directed to participate in the auction; and, instead, they should be permitted to continue to carry on business in the subject shops at a reasonable rent to be fixed by the Gram Panchayat with reasonable enhancement from time to time.

As is evident from the proceedings of the District Panchayat Officer, Karimnagar, dated 07.01.2013, the lease period of 34 rooms had already expired by 18.09.2010 and, as per Government Order No.215 dated 25.06.2001, monthly rent of the shopping complex should be decided by the Executive Engineer, and thereafter public auction should be conducted. The Panchayat Secretary was directed to decide the upset price, and recover the differential dues from the tenants of the shops, failing which action would be taken against him. It does appear from the proceedings dated 07.01.2013 that, except for the shops under the occupation of the petitioners, almost all the other shops were leased pursuant to an auction of the leasehold rights.

The relief, which the petitioners now seek from this Court, is that they should be permitted to continue in the subject shops, as they had constructed these shops with their own funds. Resolution No.23, on which reliance is placed by the petitioners, records that the petitioners had spent a sum of Rs.11,280/- for construction of the shops in the year 2004. Sri G.Narender Reddy, learned Standing Counsel for the Gram Panchayat, would submit that the shops were constructed in the year 2001, and the petitioners were granted lease for a period of three years which expired in 2004.

Be that as it may, even if the petitioners are presumed to have constructed these shops in the year 2004, having invested a sum of Rs.11,280/-, the fact remains that they have enjoyed the benefit of carrying on business in the subject shops for the past 12 years at a nominal rent fixed by the Gram Panchayat. As it is not in dispute that the land belongs to the Gram Panchayat, the petitioners cannot claim, as of right, that they should be permitted to carry on business in the

subject shops forever, as it is not even their case that the subject lands were sold to them by the Gram Panchayat.

As the Gram Panchayat, a local authority, is dependant on public funds, they are entitled to augment their revenues by putting the lease of shops to auction, and granting lease in favour of the highest bidder. It is not as if the petitioners herein are precluded from participating in the auction, if any, conducted by the Gram Panchayat for grant of lease of the subject shops.

We see no reason, therefore, to interfere with the impugned order whereby the Panchayat Secretary was directed to collect the dues after fixing the monthly rent, and also to conduct public auction. In case the petitioners pay the entire arrears of rent, as is determined by the Gram Panchayat, they may be permitted to continue carrying on business in the subject shops till an auction is held by the Gram Panchayat for grant of leasehold rights of the shops. The arrears of rent shall be paid within one month from today, failing which it is open to the respondents to take action for eviction of the petitioners, from the subject shops, in accordance with law. In case the petitioners pay the arrears of rent, as fixed earlier by the Gram Panchayat, they shall be permitted to continue till an auction is conducted for grant of lease of the shops belonging to the Gram Panchayat. The auction shall be held at the earliest and, in any event, not later than four months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

20th January, 2017
JSU

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN



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Date: 20.01.2017

JSU