

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.3086 of 2010

ORDER:

Heard Si Venkatram Reddy for petitioners, Si Narender Reddy for the Gram Panchayat and the Assistant Government Pleader for Panchayat Raj.

The petitioners pray for Mandamus to declare Proceedings No.771/08-B3(Pts) dated 09-12-2009 of the 2nd respondent and consequential eviction Order No.GPN/40/2008-09, dated 23-01-2010 and public auction notice dated 05-02-2010, as published on 08-02-2010, as arbitrary, illegal and violative of principles of natural justice.

The petitioners rely upon Resolution of the 1st respondent dated 30-06-2008 whereunder the 1st respondent resolved to extend the lease of the shops in favour of petitioners for a further period of ten years by enhancing the rent by 30% on the existing rent. Through the proceedings impugned in the writ petition, the 2nd respondent ordered the 1st respondent as follows:-

“Keeping in view of the above circumstances, as per the instructions of the Government issued vide reference 6th read above and keeping in view of the Government orders issued in G.O.Ms.No.496 PR, dated 11-06-1966 read with G.O.Ms.No.215 PR & RD Department, dated 25-06-2001, the Gram Panchayat, Nakrekal of Nakrekal Mandal is hereby accorded permission to conduct open auction of (38) shops to maximize their revenues and make the process transparent.

The Panchayat Secretary, Gram Panchayat, Nakrekal shall take follow up action as per rules accordingly and report compliance.

The Divisional Panchayat Officer, Nalgonda, shall monitor the process and submit his compliance report.”

Hence, the writ petition.

On 17-02-2010, this Court granted stay of auction and also dispossession in favour of petitioners. The interim order is subsisting as on date.

On 07-03-2017, this court passed the following order :-

Heard Mr.Venkatram Reddy for petitioners, the Government Pleader for Panchayat Raj and Mr.Ramchandra Reddy.

Learned counsel request time till 10.03.2017 to place before the Court the details of payment of rent being paid by the petitioners during the pendency of the writ petition.

The complaint of petitioners is that they are entitled for renewal for another 10 years in view of the resolution passed by the Gram Panchayat.

While trying to enforce the alleged right, this Court is of the view that the petitioners shall discharge the corresponding obligation attached to the alleged right as well. If the petitioners have not complied with the obligation of paying enhanced rent, to give quietus to the arrears issue, the learned counsel appearing for respondents submits that the petitioners can be directed to make payment forthwith.

Post on 10.03.2017 for orders.”

Mr.Venkatram Reddy places on record the details of difference of rent paid by 24 lessees and requests granting time to these petitioners till 31-12-2017, to vacate and handover vacant possession to the 1st respondent. He further submits, on instructions, that during the currency of the time, granted by this Court, the petitioners, who are in possession, will continue to pay the rent at enhanced rate.

The statement is placed on record and having regard to the resolution passed by the Gram Panchayat and the benefit the

petitioners have enjoyed all these years, this Court, to meet the ends of justice, accepts the statement.

Accordingly, the writ petition is disposed of by this order.

(a) The petitioners, who have complied with the condition of paying the difference of rent, are allowed to continue to remain as lessees of the 1st respondent till 31-12-2017 and continue to pay the enhanced rent.

(b) The petitioners, who have complied with the condition dated 07-03-2017 and are interested in availing the time granted by this order, are directed to file an affidavit before the 1st respondent-Gram Panchayat by enclosing a copy of this order, within two weeks from today.

(c) The 1st respondent is directed to conduct auction of leasehold rights of shops in terms of Sub-Rule 10 of Rule 6 of G.O.Ms.No.496, Panchayat Raj, dated 11-06-1966.

(d) The petitioners, who complied with all the conditions, can be permitted to participate in the auction held by the 1st respondent and if petitioners are successful bidders, the 1st respondent allows such successful bidders to continue to do business in the same premises.

(e) Either the condition of paying the rent is not complied with or the affidavit as directed by this Court is not filed, to the extent of such petitioners, the interim order shall stand vacated.

(f) The writ petition is filed by 31 petitioners. Petitioner Nos.1 to 15, 18, 19, 22 to 27 and 31 (24 persons) have complied with the condition and petitioner Nos.16, 17, 20, 21, 28, 29 and 30 (7 persons) have not complied with the condition. Therefore, the interim order granted in favour of petitioner Nos.16, 17, 20, 21, 28, 29 and 30 is vacated and the 1st respondent is given liberty to vacate and take possession from petitioner Nos.16, 17, 20, 21, 28, 29 and 30.

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

Miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

Dt: 16-03-2017
Prv

S. V. BHATT, J

