

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE T.RAJANI**

Writ Appeal No.992 of 2017

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.19851 of 2017 dated 22.06.2017. The appellant herein is the 5th respondent in the writ petition. The respondent-writ petitioners had earlier invoked the jurisdiction of this Court by filing W.P.No.1324 of 2013 and, by order dated 20.01.2017, it was observed:

“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.”

Aggrieved thereby, the respondent-writ petitioners carried the matter in appeal in W.A.No.205 of 2017 which was dismissed by order dated 22.02.2017. The order in W.P.No.1324 of 2013 permitted the respondent-writ petitioners to continue in the subject premises only till an auction was conducted for grant of lease of the shops belonging to the Gram Panchayat, and the Gram Panchayat was permitted to take action within four months to conduct an auction. As a result of the order in W.P.No.1324 of 2013 being confirmed in appeal, by the order of

the Division Bench in W.A.No.205 of 2017 dated 22.02.2017, the respondent-writ petitioners were entitled to continue only till an auction was conducted by the Gram Panchayat. The notice dated 25.05.2017, impugned before the Learned Single Judge, required the respondent-writ petitioners to vacate the shops within three days, even before an auction was held, though the aforesaid order of this Court, in W.P.No.1324 of 2013 dated 20.01.2017, enabled them to continue in the shops till an auction is held.

Sri G.Narender Reddy, learned Standing Counsel for the Gram Panchayat, states that proceedings have already been issued to conduct auction of the subject shops. While we are satisfied that the order under appeal falls foul of the earlier order of this Court, we consider it appropriate to hold that, in terms of the aforementioned earlier order in W.P.No.1324 of 2013 dated 20.01.2017, the respondent-writ petitioners are entitled to continue in the shops till the auction is held, and the highest bid is confirmed in favour of any person other than the respondent-writ petitioners. In case the respondent-writ petitioners are not the highest bidders in the auction, and they fail to vacate the premises in terms of the earlier order passed by this Court, it is open to the Gram Panchayat to evict them and hand over the subject shops to the highest bidders in the auction.

The order under appeal is set aside and the Writ Appeal 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)

(T.RAJANI, J)

20th July, 2017
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Date: 20.07.2017

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