

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.37160 OF 2017

ORDER :

This writ petition is filed challenging the impugned auction notice dated:nil, wherein the petitioner was directed to vacate Shop No.2 in Panchayat Complex, Adivikondiambedu Gram Panchayat, within two days as respondent Gram Panchayat wants to conduct public auction.

The case of the petitioner is that he is carrying on business of provisional store and Tiffin centre in premises bearing shop No.2 of Adivikodiambedu Grampanchayat since ten years by investing huge amounts for purchasing wooden showcases and furniture; that since no rent is fixed by the Gram Panchayat, he has not paid the same and that the respondents without issuing any prior notice issued the impugned notice directing the petitioner to vacate the premises. It is also the case of the petitioner that no resolution was passed by the Gram Panchayat for conducting public auction for leasing the subject shop; that no public notice has been published in any daily newspaper or not even affixed in the office of Gram Panchayat and no Tom Tom was conducted in the village before conducting auction.

The 4th respondent filed counter stating that the subject shop and other shops were constructed by the Gram Panchayat and the same were being maintained by the Gram Panchayat. It

is stated that since the respondent Gram Panchayat decided to conduct auction for four shops including the subject shop of the petitioner, they have issued notice to the petitioner. It is also stated that the Gram Panchayat has also passed resolution dated 31.10.2017 with regard to conducting of auction of subject shop along with other shops; and that notice in respect of public auction is also affixed at the Panchayat Office and also at two other places in the village. It is also stated that the Gram Panchayat has also informed the general public about the auction by way of tom-tom. Further, since the petitioner and other shop tenants refused to pay rents to the Gram Panchayat they have issued the impugned notice and finally sought for dismissal of the writ petition.

Heard learned counsel for the petitioner who reiterated the submissions made in the writ affidavit.

Heard Sri G.Seshadri, learned Standing Counsel for the 4th respondent who submits that since for the last ten years petitioner and other shop tenants are not paying rents for the shops, impugned notice is issued. He also produced proceedings dated 23.10.2017 stating that the matter was referred to Divisional Panchayat Officer for fixing the upset price to the said shops.

It is to be seen that in the writ affidavit the petitioner admits that the property belongs to Gram Panchayat and states that since Gram Panchayat did not fix rents he and other

tenants are enjoying the shops for the last ten years without paying rents. That supports the contention of the learned Standing Counsel for the 4th respondent. Petitioner also does not show anything that any lease was granted to the petitioner and that the same is valid as on today. As such, the petitioner has no legal right for continuation in the said premises and when the 4th respondent has taken a decision to conduct auction of subject the shop, petitioner cannot have any grievance regarding the same. More so, the learned Standing Counsel for the 4th respondent also produced proceedings dated 23.10.2017 stating that the matter was referred to the Divisional Panchayat Officer for fixing the upset price to the said shops.

In view of the same, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. It is open for the 4th respondent Gram Panchayat to conduct auction in respect of the subject shop by following procedure as envisaged in the Rules. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

29.11.2017
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