

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.1263, 1264, 1265 AND 1266 OF 2018

COMMON ORDER:

These four writ petitions are being disposed of by this common order as the petitioner is the same in all the four writ petitions.

The petitioner is a successful lessee in respect of shop Nos.7 and 10 to 12 situated in Santhapet Municipal Complex, Near Meer Mohammed Shah Quadri Duargah, Adoni, Kurnool District. It appears that the respondents 2 and 3 issued orders under Section 194 of the A.P.Municipalities Act, 1965 on an earlier occasion alleging that the petitioner sublet the premises. Challenging the action of the respondents in threatening to evict the petitioner from the shops on the said ground, the petitioner filed W.P.Nos.9470, 9468, 9469 and 9471 of 2016 and the said writ petitions were disposed of on 22.03.2016 directing the respondents 2 and 3 to follow due process of law before taking further steps pursuant to the notices issued to the petitioner. When an order was passed by the respondents 2 and 3 on 11.12.2017 directing the petitioner to vacate the premises, the petitioner again challenged the same in W.P.Nos.43294, 43365, 43363 and 43359 of 2017, on the ground that no sufficient opportunity was given to him and the order of eviction was passed violating the principles of natural justice. The said writ petitions were disposed of on 26.12.2017, directing the respondents 2 and 3 to pass orders strictly in accordance with law. After disposal of the said writ petitions, now when an order was passed on 09.01.2018 to vacate the shops and handover possession to the respondents 2 and 3 within a period of seven days, the present writ petitions are filed.

A reading of the impugned order shows that the above shops were let out to the petitioner on a monthly lease for a period of three

years from 02.07.2008. It appears that one K.Kumara Swamy lodged a complaint against the petitioner before the Hon'ble Lokayukta and the third respondent inspected the shops and submitted a report stating that all the four shops were sublet by the petitioner. When a notice was issued to the petitioner, the petitioner submitted a reply along with the documents on 13.01.2016 stating that the shops were not sublet and he has been continuing in the shops. The notice as well as the reply submitted by the petitioner was sent to the Director of Municipal Administration, Andhra Pradesh, Guntur and also to the Hon'ble Lokayukta. While so, the petitioner filed W.P.Nos.43294, 43365, 43363 and 43359 of 2017 and ultimately, by virtue of the Orders passed by this Court on 26.12.2017, the present impugned order is passed after affording an opportunity of hearing to the petitioner holding that the petitioner sublet the premises and caused financial loss to the Municipality. The details of the sub-lessees are also given in the impugned order. In those circumstances, the lease was cancelled and the petitioner was asked to handover possession within a period of seven days.

Whether the petitioner sublet the premises to the third party or whether the petitioner himself has been continuing the shops, need not be decided in the present writ petition as the petitioner admittedly was a lessee for a period of three years only commencing from 02.07.2008. The period of three years had already expired long back. The petitioner has been challenging the action of the respondents 2 and 3 on one ground or the other. The respondents 2 and 3 could not take any action for the last six years due to the litigation initiated by the petitioner. Since the lease period already expired, the petitioner cannot continue in the shops either by himself or by sub-lessees.

In the circumstances, the writ petitions are disposed of giving liberty to the respondents 2 and 3 to put shop Nos.7 and 10 to 12 situated in Santhapet Municipal Complex, Near Meer Mohammed Shah Quadri Duargah, Adoni, Kurnool District, for auction and the petitioner is also entitled to participate in the auction. Till the auction process is completed, the petitioner shall not be evicted from the premises. It is needless to observe that if the petitioner becomes a successful lessee in the proposed auction, the petitioner is entitled to continue the premises under the new Lease Agreement subject to the terms and conditions mentioned therein. Otherwise, he has to give vacant possession to the successful lessee without any demur. The respondents 2 and 3 are directed to complete the process of auction within a period of three months from the date of receipt of copy of this order.

The writ petitions are accordingly disposed of. Consequently, miscellaneous petitions, if any pending, in these writ petitions, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

11.01.2018

Note: Issue order copy today.
(By order)
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