

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5038 of 2018

ORDER:

In this Writ Petition, petitioners challenge open auction notice, dated 09.02.2018 issued by the fourth respondent – Mandal Parishad Development Officer, Nakrekal Mandal, Nalgonda District, particularly, condition Nos.7 and 8 thereof.

It is the case of the petitioners that they are poor and below poverty line and they are all social workers and running small petty businesses at wall adjacent to Moosi Road, Mandal Praja Parishad Complex, Nakrekal, since 1970 onwards.

By the impugned open auction notice, pursuant to the order, dated 31.08.2017, passed by this Court in Writ Petition No.28887 of 2017, in which, the petitioners were given liberty to participate in the auction to be held by respondent Nos.3 and 4 therein for the leasehold rights of the shops, the mulgies, which are in occupation of the petitioners, are put to open auction by the fourth respondent. As per condition Nos.7 and 8 thereof, the successful bidder has to deposit 12 months advance rent within seven days, and the second instalment of the advance lease

amount has to be paid within time i.e., between 15.02.2019 and 21.02.2019.

It is the contention of the learned counsel for the petitioners that the petitioners being poor would not be in a position to mobilize the advance rent and that the stipulation of seven days time for pre-depositing the advance rent is arbitrary.

Learned Standing Counsel appearing for respondent Nos.3 and 4 places on record the order, dated 31.08.2017 passed by this Court in Writ Petition No.28887 of 2017 and contends that the said Writ Petition was filed by the petitioners and they are squatting on the mulgies since 1970 onwards and all of them are well-to-do persons. He further contends that it is the prerogative of the Mandal Parishad to fix the terms and conditions of the auction so as to ensure that only serious bidders would participate in the auction. He also contends that if there is any concession required to be given to the petitioners, it is for the authority to consider the same, and thereby, prays for dismissal of the Writ Petition.

Having considered the respective submissions and having perused the material on record, it is to be noted that the

conditions stipulated in the impugned auction notice are not uncommon and that condition No.7 to deposit 12 months advance rent cannot be said to be arbitrary particularly, in the present day scenario, where adherence to the stipulated terms has become a rarity. It is further to be noted that the mulgies, which are put to auction, are of public property, as such, there is a duty cast on the public authority to ensure that the public property would fetch maximum income. Therefore, the conditions stipulated in the impugned open auction notice cannot be said to be arbitrary in any way. Further, the petitioners are only intending to participate in the public auction, as such, it cannot be said that as of now, the petitioners have any grievance. It is also to be noted that as and when the petitioners participate in the open auction and become successful bidders, in the event, a particular bidder requires any particular concession with respect to the pre-deposit of the lease amount, such bidder can approach the fourth respondent seeking appropriate concession/accommodation, and the fourth respondent may consider such request subject to the condition of the successful bidders ensuring the payment of the concession granted.

In those circumstances, the Writ Petition is disposed of, leaving it open to the petitioners to approach the fourth respondent as and when they become successful in the open auction and require concession with respect to the pre-deposit of the lease amount.

Miscellaneous Petitions, if any pending shall stand disposed of. There shall be no order as to costs.

16th FEBRUARY, 2018.

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CHALLA KODANDA RAM, J

