

OTHE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No. 27830 OF 2016

DATED : 12.02.2018

Between :

G. Suresh, s/o.G.Ramulu, Aged 38 years,
Shop.No.12, Mylavarapu Venkatappaiah Satram,
K.B.Road, Chilakaluripet, Guntur district and others

.. Petitioners

And

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Revenue (Endowments) Department,
Secretariat, Hyderabad and others

.. Respondents



This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Heard.

2. Petitioners claim to be tenants of properties belonging to 4th respondent charity. According to the petitioners, they have been in occupation of the subject properties for more than twenty years. However, as stated by the learned counsel for the petitioners, auction was conducted in the year 2010 wherein they were successful bidders and lease for a period of three years was granted. On expiry of the lease, further auction was conducted. Again, petitioners were the successful bidders and the lease was extended till the year 2016. When fresh auction process was initiated, this Writ Petition was filed contending that as per the procedure envisaged and as per the orders of Government in GO.Ms.No.866 Revenue (Endowments - I) Department dated 8.8.2003, discretion is vested in the Commissioner to renew the lease on enhancement of the lease amount and such renewal was granted to other lease holders by the Commissioner, Endowments, whereas the same benefit is not extended to the petitioners and the same amounts to arbitrary exercise of power. This Court by order dated 19.8.2016, while granting liberty to the petitioners to participate in the public auction scheduled on 29.8.2016, 4th respondent was directed not to finalize the confirmation of the public auction upto 6.9.2016. Thereafter, the matter was not taken up and interim order was not extended. However, in the guise that an interim direction was passed, the auction

proceedings were not finalized and petitioners continued to occupy the subject premises.

3. In the counter affidavit filed on behalf of the 4th respondent, it is stated that in the auction held on 29.8.2016, the bid amount submitted by the highest bidders against respective shops is far higher than the rents paid by the petitioners. Tabulated statement is enclosed in paragraph-7 of the counter affidavit. A bare look at the Tabulated statement would disclose that petitioners cumulatively were paying rent of Rs.8,450/- for all the eleven shops, whereas, the total bid amount was Rs.1,95,500/-, in other words, the difference is more than Rs.1,87,000/-. During the pendency of the Writ Petition, the petitioners continued to occupy the respective shops by paying paltry amount of rent as noted above.

4. Learned counsel for the petitioners sought to emphasise that GO.Ms.No.866 Revenue (Endowments-I) Department dated 8.8.2003 creates discretion in the Commissioner for renewal of lease on enhancement of the lease amount and petitioners were willing to pay the enhanced amount, whereas, not granting lease to the petitioners by granting renewal of lease to others is arbitrary.

5. In response, learned Standing Counsel points out that the orders in GO.Ms.No.866 were superseded and the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Immovable Properties and Other Right (Other than Agricultural Lands) Leases and Licenses Rules, 2003 were notified vide GO.Ms.No.426 Revenue (Endowments-I) department dated 9.11.2015. In terms of these Rules, after completion of the license/lease period, no further extension should be granted and

fresh auction has to be conducted. Thus, even assuming what is contended by the learned counsel for the petitioners is true, after notification of Rules, 2003, even that contention is no more available. No right is vested in the lease holder to seek to continue beyond the lease period and it is for the owner of the property to hold auction. The properties standing in the name of the trust would yield revenue to be utilized for upkeep of the properties and for other measures required for the benefit of persons availing the facilities of the charity. Conducting of fresh auction at periodical intervals generate higher lease amounts and, therefore, it is in the interest of owner of the property to conduct auction periodically. Thus, merely because a discretion is vested in the Commissioner, petitioners cannot insist for renewal of lease granted to them and prevent the owner from conducting fresh auctions. Further more, as seen from the tabulated statement in the counter affidavit, the lease amount is far higher than the lease amount paid by the petitioners. In other words, the 4th respondent was deprived of considerable amount of income from the properties due to the institution of the Writ Petition and pendency of writ petition. Thus, I see no merit in the Writ Petition.

6. The Writ Petition is accordingly, dismissed. The petitioners are enjoying the property during the pendency of the writ petition though in the auction conducted by the 4th respondent on 29.8.2016, the rent amount worked out/quoted by the highest bidders to the respective shops is far higher. Hence, it is open to the 4th respondent to recover the difference of amount for the period during which they are in occupation. It is also open to the 4th respondent to conduct fresh auction, if so advised. The

petitioners shall vacate the premises by paying the difference amount if any demanded by respondent owner, within four weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

P. NAVEEN RAO,J

Date: 12.2.2018

KPM

