

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**WPC No. 3106 of 2020**

- Ashish Nag S/o Lt. Shri Sounind Kumar Nag, R/o A-34, Kota Housing Board Colony, Raipur, Tahsil and District Raipur C.G. 492001

-----Petitioner**VERSUS**

1. State of Chhattisgarh, through Secretary, Urban Administration and Development, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, New Raipur, District Raipur C.G.
2. Raipur Development Authority, through its Chief Executive Officer, Raipur Development Authority, Bhakta Mata Karma Commercial Complex, New Rajendra Nagar, Raipur, Chhattisgarh
3. President, Raipur Development Authority, Bhakta Mata Karma, Commercial Complex, New Rajendra Nagar, Raipur Chhattisgarh.

-----Respondents

For Petitioner	:	Mr. Akhilesh Mishra, Advocate
For Respondent -State	:	Mr. Vikram Sharma, Dy. G.A.
For Respondent 2	:	Mr. Ashish Shrivastava, Advocate

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Per Parth Prateem Sahu, J.****10/12/2020**

1. The petitioner stating himself to be the occupant of one of the shops situated at Bombay Market, Raipur, as lessee since 1976, has filed this writ petition with the following reliefs.

“10.1 That, this Hon'ble Court may kindly be pleased to quashing all subsequent notice issued by Raipur Development Authority.

10.2 That, this Hon'ble Court may kindly be pleased to writ/ writs, order/ orders, direction/ directions issued by Raipur Development Authority may kindly be set-aside and the respondents may kindly be directed not to dispossess the petitioner and resumed possession of the shop by extra-judicially by use of force.

10.3 That, this Hon'ble Court may kindly be

pleased to call for the entire records relating to the matter.

10.4 Any other relief/ reliefs which may deem fit and proper in the facts and circumstances of the case may also be allowed.”

2. Case of the petitioner is that lease granted to the petitioner has been renewed time to time and the last renewal of the agreement was up till 31.03.2019. He has paid all the dues but further renewal agreement has not been entered. Respondent 2 issued a notification for auction of shops constructed under the Bombay Market under permanent lease for 30 years. Prices were fixed by Respondent 2 is much more than the price what is fixed by the Collector of that area (Collectorate rate/ Government rate). Further mentioning that shops are situated over canal (Nala), which may be dismantle for development of area under the Master Plan of Raipur City, in future, which is within the knowledge of Respondent 2, but even then Respondent 2 has issued notification for auction of those shops under permanent lease of 30 years. The other shopkeepers like petitioner, due to Covid-19 pandemic situation, are facing huge financial crisis and are not in a position to participate in the auction proceedings and to pay the highest rate.
3. Mr. Akhilesh Mishra, learned counsel for the petitioner argues that the shops are situated over the canal (Nala) and the constructed shops are required to be brought down during the course of development of the city for widening of road and canal as per Master Plan of Raipur City but even then it has been notified for auction. The price is much more than that of the shops owned by Respondent 2 situated in other areas of Raipur City. He also pointed out that Respondent 2 and 3 have committed some irregularities in the auction proceedings.

4. Mr. Ashish Shrivastava, learned counsel for Respondent 2 who appeared on advance notice submits that the petitioner has earlier filed writ petition on almost similar grounds challenging the notifications issued by Respondent 2 for auction of shops which came to be dismissed *vide* order dated 25.09.2020, hence, this writ petition is also not maintainable. Petitioner is a fence seater who did not chose to participate in the auction proceedings since beginning nor has approached the writ Court by filing writ petition initially as other interested persons have filed. He only wants to somehow stall the proceedings of the auction. Auction proceeding, in pursuance of Notice dated 07.08.2020, has already been completed on 17.08.2020. In paragraph 10.1 of the writ petition, petitioner has not challenged any specific notice but very vague relief is sought for which could not be granted.
5. We have heard learned counsel for the respective parties.
6. From bare perusal of the pleadings and reliefs sought by the petitioner and submission of learned counsel for Respondent 2, it appears that the petitioner has already challenged the tender notification issued by Respondent 2. Respondent 2, under the policy decision, has taken steps to auction the shops, under permanent lease of 30 years, owned by them instead of entering into the tenancy agreement and the said policy decision cannot be said to be violative. Auction notification was challenged by petitioner in WP(C) No. 1766/2020, which came to be dismissed *vide* order dated 25.09.2020. Relevant paragraph of the order dated 25.09.2020 is extracted below for ready reference.

“5. From perusal of the reliefs sought for in the writ petition as extracted in the preceding paragraph, it is apparent that the Petitioner has challenged the Auction Notice dated 18.03.2020 and notice dated 12.05.2020, which were already withdrawn as per the submission made by the learned counsel for Respondent No.2 and thereafter fresh Tender Notifications have been issued on 07.08.2020 and followed by 11.08.2020.

In view of the relief sought for by the Petitioner in paragraph 10.1 of the writ petition, no relief can be granted to him in these proceedings.”

7. The tender notifications have been issued for auction of shops owned by Respondent 2 under the policy decision taken by the board of Directors. The petitioner failed to demonstrate any *malafide* intension on the part of Respondent 2 and 3 in taking a policy decision of auctioning of shops under permanent lease of 30 years, owned by them on ownership. Fixing of price is within the domain of owner of property ie. Respondent 2. Courts cannot direct the Respondent-authority to fix particular price of their property. The ground raised by petitioner that the shops have been constructed over the canal and at the time of widening of roads/ canal, shops are required to be brought down is for the auction bidders to consider and decide whether they want to take those shops on permanent lease under auction or not, considering entire aspects of location of shops. If other auction bidders are ready, it is between them and not for the Court to decide. As per submission of learned counsel for Respondent 2, tenancy/ lease agreement of petitioner has already come to end. No relief as sought for by the petitioner can be granted under this proceeding.
8. For the foregoing reasons, we do not find any merit in the writ petition. Writ petition is liable to be and it is hereby dismissed accordingly. However, petitioner will be at liberty to avail appropriate remedy if available to him under law.

Sd/-
(P.R. Ramachandra Menon)
 Chief Justice

Sd/-
(Parth Prateem Sahu)
 Judge