

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF JUNE
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No. 8654 of 2012

BETWEEN

K.Gurucharana and others

... PETITIONERS

AND

Mancheria Municipality, rep. by its Commissioner

...RESPONDENTS

The Court made the following:

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ORDER:

This writ petition is filed seeking to declare the action of the respondent in issuing auction notice dated 23.03.2012 vide Lr.No.349/A1/2012 notifying to auction shops bearing shop Nos.B2, B3, B4, B5, B6, B7, B8, B9, B10, B11, A2, A4, A5, A6, A7 & A8, Municipal Complex, Mancherla, Adilabad District, respectively and also eviction notices in Roc No.A1/349/2012 dated 16.03.2012 received on 24.03.2012 as illegal and arbitrary and set aside the same and further direct the respondent to consider the representations of the petitioners dated 24.03.2012 offering to pay the enhanced rent of 33 1/3% for a further period of three years.

2. It is the case of the petitioners that they are all lessees with the respondent Municipality and their leases have expired, they made request for continuation of lease on payment of enhanced rent. Aggrieved by the action of the respondents in not extending the lease period and issuing auction notice for leasing out the premises in the occupation of the petitioners, the present writ petition is filed.

3. On 27.03.2012, this court ordered notice before admission and directed that auction may go on and it is for the petitioners to participate in the auction and the auction will be subject to result of the writ petition.

4. Counter affidavit is filed by the respondent stating that the municipality is conducting open auction for leasing out the municipal shops for getting reasonable increase of income. During the auction of each shop, the participants have quoted the rent amount @ double the existing rent. It is further stated that as per Rule 12(e), the process of enhancement of rent @33.1/3 % for extending lease over the existing rent shall be upto 25 years. After 25 years on auction, the rent shall be fixed on the amount quoted in auction or increase of 33 1/3 %, whichever is higher. Therefore, the petitioners are at liberty to participate in the auction and get the shops, but they are not entitled to retain the shop on the enhancement without participating in the auction.

5. Heard learned counsel for the petitioners and Sri N.Praveen Kumar, learned standing counsel for the respondent.

6. Learned standing counsel submits that once the petitioners' lease of 25 years is completed, respondent has no power to extend the lease in view of the order of this court in W.P.No.6354 of 2009 dated 25.08.2009, wherein this court held that neither the Government nor the municipality have power to grant leases exceeding 25 years.

7. Admittedly, the leases in favour of the petitioners expired and this court has also not granted any stay of eviction and only directed that auction may go on. No rule is brought to the notice of this court by the petitioners for extending the lease beyond 25 years without conducting public auction. In view of the order of this court in W.P.No.6354 of 2009 dated 25.08.2009, neither the Government nor the Municipality has the power to grant leases exceeding 25 years.

In view of the same, no Mandamus can be granted for extending lease. Hence, I do not see any merit in the writ petition.

Writ petition is, accordingly, dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

A. RAJASHEKER REDDY

June 11, 2015

Lmv