

(2012) 11 AP CK 0094

In the Andhra Pradesh High Court

Case No : Writ Petition No. 36366 of 2012

Abdul Mazid and Others

APPELLANT

Vs

The District Panchayat Officer, Krishna District, Machilipatnam
and Another

RESPONDENT

Date of Decision : 28-11-2012

Acts Referred:

Citation : (2013) 1 ALD 698 : (2013) 2 ALT 217

Hon'ble Judges : Nooty Ramamohana Rao, J

Bench : Single Bench

**Advocate : Sai Gangadhar Chamorthy, for the Appellant; Panchayat Raj for
Respondent No. 1 and Sri G. Elisha, for the Respondent**

Final Decision : Dismissed

Judgement

Nooty Ramamohana Rao

1. The petitioners herein seek a writ of mandamus for declaring the action of the respondents in conducting public auction to grant licence/leasehold rights relating to the shops situate in the commercial complex of the 2nd respondent gram panchayat, without considering their request for extension of their leasehold rights, subject to enhancement of the rent by 33%, as arbitrary and illegal. The six petitioners assert that a commercial complex comprising of several shop rooms was got constructed by the 2nd respondent gram panchayat in the year 2006. The licence to carry on business therein, for a period of three years, was granted by conducting public auction on 25.09.2006. The petitioners have participated and emerged as the highest bidders. The petitioners subsequently approached the gram panchayat and the gram panchayat has passed a resolution for reducing the rentals and also extended the period by three years. At the reduced rate of rentals also, the petitioners continued to occupy the shop rooms in their possession for a further period of three years, commencing from 01.12.2009 up to 30.11.2012. Now, the 2nd respondent gram panchayat has proposed to conduct a public auction for grant of licence/leasehold

rights for these shop rooms. That is what is being objected to by the petitioners.

2. Heard Sri Sai Gangadhar Chamorthy, learned counsel for the petitioners, learned Assistant Government Pleader for Panchayat Raj appearing for the 1st respondent and Sri G. Elisha, learned Standing Counsel for the 2nd respondent.

3. Sri Sai Gangadhar Chamorthy, learned counsel for the petitioners would urge that the petitioners have submitted a representation, in accordance with the policy decision of the State Government to allow the lessees to continue in possession, subject to their enhancing the existing rent by 33%. The petitioners have submitted their representation on 22.11.2012 agreeing to enhance the rental by 33% and they sought for extension of their leasehold rights by a further period of three years. Since the said representation has not been disposed of, this Writ Petition is instituted in this Court.

4. It is worthy to note that this Writ Petition has been instituted in this Court on 23.11.2012, whereas the representation has been submitted by the petitioners to the District Panchayat Officer on 22.11.2012 i.e. the previous day. A representation submitted by the petitioners could not have been disposed of in a day's time for the petitioners to have a genuine cause of action for approaching this Court.

5. This apart, the petitioners got into possession of these shop rooms by participating in a public auction. The shopping complex was got constructed by the 2nd respondent gram panchayat by utilizing the funds available with it. Therefore, the shopping complex is a property belonging to the 2nd respondent. A property of the 2nd respondent, a body corporate under the A.P. Panchayat Raj Act, could not have been leased out or licensed for carrying on commercial activities therein in favour of the petitioners without putting it to public auction. Public auction is the only known mode, which will secure a fairly competitive price. Further, there will be least scope for manipulation, nepotism or favoritism. Whoever is interested, in such a public property, in obtaining a licence and lease would be at liberty to participate. Thus, it would ensure that the larger public interest is better sub-served. In the instant case, the petitioners got into possession of the shop rooms by participating in such a public auction. They sought for extension by a period of three years, which was accorded to them also. In fact, they had the good fortune of getting the extension at a reduced rate of rentals. One wonders as to why the 1st respondent District Panchayat Officer or any of the internal auditors have not raised their little finger in the matter objecting to reduction of the rentals from what has been fetched at a public auction conducted three years prior thereto.

6. Be that as it may, a person, who gets into possession of a public premises by participating in a public auction, is bound by the terms and conditions, subject to which the said auction is conducted. He is not liable to continue in possession of a premises thus secured beyond the time limit specified therein. No licensee or lessee, who has secured such a right to carry on his business by participating in

a public auction, has right to carry on any such business after the expiry of lease or licence period. He is bound to deliver vacant possession of the public property to the 2nd respondent. Otherwise, the very purpose of conducting public auctions would get obliterated. Persons with considerable amount of influence or reach cannot be allowed to squat on public property after having got into possession of the said public property by participating in public auction. They must participate in the public auction afresh in case they satisfy all the terms and conditions stipulated for that purpose. They must compete along with all others for securing a fresh term of licence or lease. No priority or preference can be accorded to them.

7. In the absence of any statutory provision or any particular guideline or policy decision taken by the State Government, to mitigate any particular or peculiar hardship suffered, no lease period or licence period can be extended in favour of the existing licencees/lessees. Any such action on the part of a public authority would amount to paying a premium to the highest bidder at the public auctions conducted once upon a time. I therefore, do not see any justifiable reason or merit to compel me to admit this Writ Petition.

8. If the petitioners are otherwise entitled, after satisfying all the terms and stipulations prescribed therefor, to compete at the public auctions for granting the licence/leasehold rights for the shop rooms in the shopping complex constructed by the 2nd respondent, Respondents 1 and 2 are directed to take all necessary steps immediately for conducting the public auction and in accordance therewith, regulate the occupancy of the shopping complex constructed by it.

9. With this, the Writ Petition stands dismissed. No costs. Consequently, the miscellaneous applications, if any shall also stand dismissed.