

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO.19472 OF 2023

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:

“.... to issue a writ, order or direction more particularly one in the nature of the writ of Mandamus declaring the Notice dated 22-07-2023 issued by the 3rd respondent as illegal, arbitrary and in violation of Article 14, 21 and 300-A of the Constitution of India and to consequently set aside the same and further direct the respondents to renew the lease of the petitioner in respect of shop No. 21, 22 and 23 in the shopping complex of 3rd respondent and to pass such other or further orders.....”

2. The short grievance of the petitioner herein is that without extending the petitioner's lease pursuant to the representation dated 22.02.2023, the Gram Panchayat has issued notice dated 22.07.2023, directing the petitioner to handover the lease property to the Gram Panchayat as per the terms and conditions in the lease agreement.

3. The case of the petitioner herein is that he being the successful bidder in the auction conducted by the Gram

Panchayat for lease hold rights entered into a lease agreement with the 3rd respondent *vide* lease-deed dated 12.09.2008 by depositing goodwill. The duration of the lease initially was for nine years i.e., from 01.08.2008 to 31.07.2017 and the same was extended for another six years i.e., from 01.08.2017 to 31.07.2023 on payment enhanced rent at Rs.30/- on every Rs.100/- over and above the original lease amount and the petitioner is continuing the shop by complying all the terms of lease-deed.

It is further case that, due to Covid-19 pandemic, the State imposed restrictions on the movements of the public and shutdown the business establishments besides imposing lockdowns, and due to the same, the petitioner could not do much business for nearly two (02) years. As such, the petitioner made a representation to the 3rd respondent requesting to extend the lease for another period of six (06) years, duly stating that the petitioner is ready to pay 30% over and above the existing rentals. For which the 3rd respondent informed the petitioner that, he would consider extension of lease. However, without passing any orders and without extending the lease, the 3rd respondent issued the present notice dated 22.07.2023 to

vacate the premises. Aggrieved by the same, the present Writ Petition is filed.

4. Heard, Sri V.V. Satish, learned counsel for the petitioner, Sri N. Srihari, learned standing counsel for Gram Panchayat and learned Assistant Government Pleader for Panchayat Raj & Rural Development.

5. Sri V.V. Satish, learned counsel for the petitioner, in elaboration to what has been stated in the affidavit contended that, the petitioner stood as a successful bidder in the auction conducted by the 3rd respondent for leasing out the shops in the shopping complex and thereby the petitioner has entered the lease agreement in the year 2018 and the said lease was later extended up to 31.07.2023. He further submitted that, due to Covid-19, as the petitioner could not do business for a period of two years and incurred huge loss, he sent a representation dated 22.02.2023 to extend the lease further for a period of six (06) years through registered post, the same is placed on record and has drawn the attention of this Court to the same.

The learned counsel for the petitioner further submitted that, without considering the representation, the 3rd respondent,

by putting the petitioner in dark and making him to believe that they would extend the lease period, have issued the impugned notice dated 22.07.2023. He further submitted that, the impugned notice though styled as notice, it is an order to vacate the premises. The same having been issued without issuing any prior notice and without hearing the petitioner and in violation of principles of natural justice, is unsustainable. Hence, prayed to allow the Writ Petition.

The learned counsel would further submit that, it is settled principles of law that in the event of the Gram Panchayat intends to evict the petitioner from the subject property without extending the lease, they have to take steps in accordance with law. In the present case, the Gram Panchayat without adhering to the principles of law as well as natural justice, has ordered the petitioner to vacate the premises. He further contended that the petitioner has invested huge amounts in the shops and if abruptly dispossess from the shop, the petitioner would be put to great hardship and irreparable loss. As such, the present Writ Petition is filed and prayed to protect the interest of the petitioner.

6. On the other hand, Sri N. Srihari, learned Standing Counsel, on instructions, submitted that subsequent to conclusion of lease period, the petitioner will not have any right to squat over the Gram Panchayat's property. The Gram Panchayat has rightly issued the impugned notice, thereby asking the petitioner to vacate the premises. The petitioner has no legal right to continue in the possession of the shopping complex and further he has instructions to the effect that the petitioner has given some under taking to the Gram Panchayat.

He further submitted that, there are no legal valid grounds raised or urged before this Court, warranting the interference of this Court and prayed to dismiss the Writ Petition. In support of his contention, learned Standing Counsel, relied on the judgment of this Court in W.P. No. 7026 of 2023 & batch dated 28.03.2023 and prayed to dismiss the Writ Petition.

7. In reply to the said submission, learned counsel for the petitioner submitted that, the Gram Panchayat did not consider the representation made by the petitioner which was given way back in January 2023 undertaking to the Gram Panchayat to pay 30% enhanced rent and without taking them into consideration, the Gram Panchayat cannot evict the petitioner

from the subject premises. The learned counsel for the petitioner submitted that the petitioner had never given any under taking except the representations. As such, prayed to protect the interest of the petitioner and pass appropriate orders in this Writ Petition.

8. Perused the record.

9. It is not in dispute that the petitioner's lease was expired on 31.07.2023. The petitioner made a representation dated 22.02.2023, duly requesting the Gram Panchayat to extend the lease for a further period of six (06) years in the month of January, 2023. Though the said representation was sent by registered post, the Gram Panchayat did not consider the same before issuing the impugned notice dated 22.07.2023. No doubt that the petitioner has no legal right to squat over the property of the Gram Panchayat. But his lease was extended from time to time and the Covid-19 Pandemic had a devastating effect on all the business establishments. Whether the Gram Panchayat wants to renew the lease of the petitioner is no doubt lies in their exclusive domain. This Court feels it unnecessary to make any observations in that regard. However, as the petitioner has submitted a detailed representation by duly stating that he is

ready to pay the enhanced rent, the Gram Panchayat neither considered nor rejected the said representation before issuing eviction order. As rightly contended by the learned counsel for the petitioner, no prior notice has been issued to the petitioner before issuing the impugned notice. Straight away issuing the impugned notice containing a direction for eviction, without issuing any prior notice is a clear violation of principles of natural justice. Thus the same is unsustainable, under law.

10. In view of the facts and circumstances of the case and taking the submissions made by both the learned counsel into consideration, instead of keeping the Writ Petition pending, this Court is inclined to dispose of the Writ Petition, at the admission stage, with the following direction:

The notice impugned dated 22.07.2023, is hereby set aside. However, this order does not preclude the Gram Panchayat from passing a reasoned order on the representation dated 22.02.2023 and the undertaking given, if any by the petitioner, after giving an opportunity of personal hearing to the petitioner and communicate the same to the petitioner. Till such exercise, the respondent-Gram Panchayat is directed not

to take any coercive steps against the petitioner. There shall be no order as to costs.

Consequently, miscellaneous petitions, pending if any, shall stand disposed of.

JUSTICE RAVI CHEEMALAPATI

3rd August, 2023

TJN/SCH