

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.27477 of 2013

DATED : 25.08.2015

Between :

M.Sathi Babu S/o.Appa Rao,
42 yrs, Cultivation,
R/o.Achampeta H/o.Panasapadu,
Samarlakota Mandal, East Godavari District.

.. Petitioner

and

Sri Venkateswara Swamy Temple,
Achampeta, rep., by its Executive Officer & others.

.. Respondents

This court made the following :

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ORDER :

With the consent of learned counsels appearing for respective parties, this writ petition is disposed of.

2. Petitioner claims to be cultivating tenant of land to an extent of Ac.4.00 in Sy.No.127/1, Panasapadu Village, belonging to Sri Venkateswara Swamy temple, Achampeta (1st respondent). According to the petitioner, his father cultivated the land for more than 10 years and he continues to be cultivating the same, after the death of his father and has been paying Maktha for cultivating the said land. Alleging that illegally the respondents 1 to 3 are interfering and seeking to dispossess the petitioner from the subject land, this writ petition is filed.

3. Learned counsel for the petitioner contends that the land to an extent of Ac.10.00 belongs to the 1st respondent. Out of Ac.10.00, Ac.5.00 was given to Archakatvam and Ac.5.00 remained with the temple. Out of Ac.5.00 given for Archakatvam, the petitioner is in cultivation and enjoyment of Ac.4.00 of land. Earlier the petitioner filed ATC.No.10 of 2013 on the file of Special Tenancy Officer-cum-Principal Junior Civil Judge, Kakinada, against the 4th respondent herein. The said case was dismissed holding that the land belongs to the 1st respondent-temple and in view of the provisions contained in A.P. Charitable & Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Endowments Act'), the jurisdiction lies with the Endowment Tribunal established under the Endowments Act and that the same is not maintainable.

4. Learned counsel further submits that in view of the finding that the land belongs to the 1st respondent, and when petitioner is in cultivation of the said land, without following the due process as envisaged in Section 83 of the Endowments Act, the petitioner cannot be evicted.

5. Learned counsel for the 4th respondent submits that Ac.5.00 of land was given to the 4th respondent for performing Archakatvam service. Learned counsel submits that the petitioner is only a farm servant of the 4th respondent and he is not a tenant as claimed by him and no material is

produced in support of the said contention.

6. In the counter affidavit filed on behalf of the 1st respondent, the basic facts are not denied. The temple authorities admit that Ac.5.00 of land was given to the 4th respondent for doing Archakatvam service. The 1st respondent raised an objection about the maintainability of the writ petition, in as much as, the dispute is between the petitioner and 4th respondent who are private parties and therefore, the writ petition is not maintainable. The 1st respondent admits the fact that the land belongs to the temple, but was given to the 4th respondent for doing Archakatvam service and therefore, if there is any dispute between the petitioner and 4th respondent, they have to resolve the said dispute in an appropriate legal proceedings, but not by way of a writ petition. It is further averred that the 4th respondent alone is paying taxes to the Government but not by the petitioner.

7. The order passed by the Special Tenancy Officer-cum-Principal Junior Civil Judge, Kakinada, clearly disclose that subject land belongs to the temple. It is also the case of all the parties herein, that the subject land belongs to the temple. It is also not in dispute that Ac.5.00 from out of which the petitioner claims to be in cultivation to an extent of Ac.4.00 was given to the 4th respondent for doing Archakatvam service. In support of the claim of the petitioner that he is doing cultivation to an extent of Ac.4.00 and that he is paying the requisite fees and Maktha to the temple, no material is brought on record.

8. Learned counsel for the petitioner sought to place reliance on the receipt issued by the temple authorities as acknowledgment of receipt of the lease amount which is enclosed as Annexure P.2 at Page No.25. A reading of the said receipt would disclose that petitioner paid the lease amount on behalf of Venkateswara Swamy Archaka Manyam. Thus, even according to this receipt, the amount was paid by the Manyam, but not by the petitioner. Except this receipt no other material is brought on record to support his contention. In view of the categorical stand of the respondents, and since there is no material brought on record to show that the petitioner was granted lease and is a lessee of the temple and when it is clearly averred by all the parties that a particular piece of land to an extent of Ac.5.00 was given to 4th respondent, in view of performing Archakatvam service, no relief as sought for, by the

petitioner can be granted in this writ petition. Neither the petitioner has relationship with the 1st respondent temple, nor he is a lessee of the 1st respondent. If the petitioner has any grievance vis-à-vis the 4th respondent, he has to work out his remedies elsewhere. Thus, I do not see any merit in the writ petition.

Accordingly, the Writ Petition is dismissed. The interim order dated 21.09.2013 passed by this Court, stands vacated. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

25th August, 2015.
Rds

P.NAVEEN RAO,J