

**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**WRIT PETITION No.6507 OF 2003**

**ORDER**

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This writ petition is filed questioning the proceedings of the 1<sup>st</sup> respondent in Rc.No.M4/25950/2002 dated 07.11.2002, as arbitrary and illegal.

It is stated that 5<sup>th</sup> respondent-temple is owning the lands admeasuring Ac.69-72 guntas in Sy.Nos.48, 49, 187, 188, 190, 198, 593, 594, 595, 699 to 706 situated at Anneparthi and Cherlapalli Village, Nalgonda Mandal and District. While so, the 4<sup>th</sup> respondent-Assistant Commissioner, Endowments Department requested the Commissioner, Endowments Department-1<sup>st</sup> respondent to accord permission for auctioning the agricultural lands admeasuring Ac.10-22 guntas in Sy.No.18, 49, 187 to 190 and 198 of Anneparthi Village and the agricultural lands admeasuring Ac.34-01 guntas in Sy.Nos.593 to 595, 699 to 706 of Cherlapalli Village. In pursuant to the proposal of the 4<sup>th</sup> respondent, the 1<sup>st</sup> respondent gave permission vide letter dated 12.06.2002 for public auction of the lands of the 5<sup>th</sup> respondent temple and accordingly a tender-cum-public auction notice was published in Andhra Pradesh Gazette Part-II-Extraordinary dated 27.06.2002 and in "Praja Shakthi" Telugu Daily newspaper on 14.07.2002 calling for objections and suggestions as required under Section 80(1)(b) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') and the Rules made thereunder. Copies of the letter dated 12.06.2002 of the 1<sup>st</sup> respondent were also notified at the office of the Gram Panchayat, Anneparthi and Cherlapalli Villages and at the offices of Mandal Revenue Officer and Revenue Divisional Officer of Nalgonda Mandal and District. Subsequently, the 1<sup>st</sup> respondent in his proceedings in Rc.No.M4/25950/2002-1 dated 20.08.2002 accorded permission under Section 80(1)(a) of the Act to the person-in management of 5<sup>th</sup> respondent temple to sell the lands in question in tender-cum-public auction and deputed Deputy Commissioner-3<sup>rd</sup> respondent, Endowments Department for the public auction to be held on 05.09.2002 and in

the presence of the 3<sup>rd</sup> respondent in the office of the 4<sup>th</sup> respondent 18 persons have participated and offered their sealed cum open tenders in respect of Sy.Nos.48, 49, 187 to 190, 198 and Sy.No.593 to 595, 699 to 706 of Anneparthi and Cherapalli villages admeasuring Ac.43-23 guntas. In respect of lands in Sy.Nos.699 to 706 of Cherlapalli village, admeasuring 13-21 guntas, six (6) persons have offered their tender and the petitioner is one amongst them, who deposited the earnest money deposit of Rs.1,00,000/- and that the petitioner was the highest bidder in respect of the said lands by offering Rs.76,000/- per acre. The 3<sup>rd</sup> respondent accepted the petitioner as highest bidder and has forwarded the auction papers, in original, to the 1<sup>st</sup> respondent through his letter dated 11.09.2002 requesting him to approve the auction for sale of the land in favour of the petitioner. Immediately, the petitioner deposited 1/3<sup>rd</sup> amount of the bid amount of Rs.3,43,633/- apart from Rs.1,00,000/- towards EMD. Though the auction held on 05.09.2002 was approved, the 1<sup>st</sup> respondent through his letter dated 07.11.2002 directed the 3<sup>rd</sup> respondent to re-conduct the public auction.

Counter affidavit is filed by the respondents 1 to 4 stating that the 4<sup>th</sup> respondent has addressed a letter dated 08.08.2002 to the 1<sup>st</sup> respondent stating that no objections have been received for the sale of the lands belonging to the 5<sup>th</sup> respondent temple and requested him to depute the supervising authority. Thereupon, the 1<sup>st</sup> respondent issued orders dated 31.03.2002 permitted the person-in management of the temple to conduct public auction of the lands and deputed the Deputy Commissioner to supervise the public auction to be held on 05.09.2002. In pursuance of the auction held on 05.09.2002, 18 bidders have paid the initial deposits and participated in the public auction and petitioner is one among them. The petitioner emerged as the highest bidder by offering Rs.76,000/- per acre in respect of the lands in Sy.Nos.699 to 706 of Cherlapalli village, admeasuring Ac.13-21 guntas and the 3<sup>rd</sup> respondent who supervised the auction submitted a report to the 1<sup>st</sup> respondent through proceedings dated 11.09.2002 and requested him to approve the auction in favour of the highest bidder. Since the bid amount was very less than the expected amount by the Department, the 1<sup>st</sup> respondent after getting the matter enquired, issued orders for re-auction of the land vide

proceedings dated 07.11.2002.

In this case, though it is admitted that the petitioner was the highest bidder in the auction conducted on 05.09.2002 and a report was also sent to the 1<sup>st</sup> respondent to approve the same, the 1<sup>st</sup> respondent issued the impugned order stating that he is not satisfied with the bid amount fetched in the open auction in respect of the above said lands as it is very less when compared to the market value.

As per the Rules, unless the auction is confirmed by the 1<sup>st</sup> respondent, petitioner will not get any right. The 1<sup>st</sup> respondent was not satisfied with the value fetched through the open auction and ordered for re-auction. If at all the petitioner is interested, he can participate in the re-auction as no rights of the petitioner are affected. Section 80(1)(b) of the Act reads as follows:

“The Commissioner, may, after publishing in the Andhra Pradesh Gazette the particulars relating to the proposed transaction and inviting any objections and suggestion with the respect thereto and considering all objections and suggestions, if any received from the trustee or other person having interest, accord such sanction where he considers that the transaction is :

- i. prudent and necessary or beneficial to the institutions on endowment;
- ii. in respect of immovable property which is uneconomical for the institution or endowment to own and maintain; and
- iii. the consideration therefore is adequate and proper.”

The 1<sup>st</sup> respondent imposed a condition that the sale is subject to confirmation by the Commissioner as per the Alienation of Immovable Property Rules, 1987 (for short ‘the Rules’) and the same is mentioned under Rule 14 of the Rules.

Rule 14 of the Rules reads as follows:

“Acceptance of Bid:

Leases shall ordinarily be given to the highest bidder. Where it is proposed to accept a bid other than the highest bid, reasons for not accepting the highest or other bids higher than the accepted shall be recorded in writing by the Executive Authority. The acceptance of the bid shall be subject to approval of the competent authority.”

The petitioner being aware of the same, participated in the auction and he is bound by the same and till auction is confirmed no rights are conferred on him. Hence, no mandamus can be issued to the 1<sup>st</sup> respondent to approve the auction, if he is not satisfied with the value fetched by the auction held on 05.09.2002.

In view of the above facts and circumstances, I do not see any merit to entertain the writ petition. Accordingly, the writ petition is dismissed. The amounts, if any, deposited by the petitioner and if the said amount is kept in FDR's, the same shall be returned to the petitioner along with the interest accrued thereon. There shall be no order as to costs. As a sequel, miscellaneous petitions pending if any, shall stand closed.

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**A.RAJASHEKER REDDY,J**

Date: 11.06.2015

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