

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.21990 of 2014

DATED : 02.09.2015

Between :

Gorantla Punnaiah S/o.Late Venkata Swamy,
Aged about 46 yrs, Occu : Cultivation,
R/o.Bommanampadu Village, Addanki Mandal,
Prakasam District.

.. Petitioner

and

State of Andhra Pradesh,
Rep., by its Principal Secretary,
Revenue (Endowments) Development,
Secretariat, Saifabad, Hyderabad & others.

.. Respondents

This court made the following :

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ORDER :

Petitioner claims to be a cultivating tenant of land belonging to the 4th respondent-temple to an extent of Ac.4.00 in Sy.No.106 of Bommanampadu Village, Addanki Mandal, Prakasam District. According to the petitioner his father was a small farmer and their family has been in possession and enjoyment of the said property for over 30 years. By virtue of cultivation of the said lands, they have been eking out their livelihood. According to the petitioner, he has applied for declaring him as a small farmer to enable him to avail benefits provided under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'). While so, the respondents served a copy of the proceedings stated to have been issued on 01.11.2011 in the year 2014 holding that the request of the petitioner for declaring him as a small farmer is rejected. As a consequence to the said decision, it was also decided to go for public auction of the said properties for granting lease. Aggrieved thereby this writ petition is instituted.

2. Learned counsel for the petitioner submits that the petitioner was not put on notice nor was given opportunity to establish his claim that he is a small farmer and therefore, entitled to avail the benefit under Section

82 of the Act. Even the impugned proceeding was also not served on the petitioner till the year 2014 and in the year 2014 only, a Xerox copy is given to him by the 4th respondent.

3. Having regard to the statement of the petitioner that he was not put on notice before passing the impugned order and that no opportunity was provided to establish that he is a small farmer, this Court directed the 3rd respondent to produce the record.

4. Praying to vacate the said interim order passed by this Court, the 4th respondent filed Vacate stay petition. Relying on the averments made in the counter affidavit, the learned standing counsel for the 4th respondent contended that the petitioner cannot be classified as a small farmer as he holds more than Ac.5.00 of land. He further submits that the notices were served on the petitioner, but he did not attend to the enquiry and therefore, there is no illegality in the decision taken by the 3rd respondent and that the petitioner is in illegal occupation of the property belonging to the temple, and if an open auction is conducted the temple would get more revenue.

5. Learned Assistant Government Pleader produced the record concerning the subject matter. A perusal of the record would disclose that a notice dated 22.05.2008 was sent to the petitioner by way of registered post and was served on the petitioner. However, no further action was taken for about two years and a further notice was issued in the year 2010 and the same seems to have been sent by way of certificate of posting. Another notice was issued in October 2011 and the record did not disclose as to how the said notice was sent. Thereafter alleging that though the notices were sent but the petitioner did not respond and did not appear before the competent authority as directed, the impugned order is passed rejecting the request of the petitioner to declare him as a small farmer.

6. Since the record did not disclose effective service of notice, I deem it proper to remit the matter to the 3rd respondent for consideration of the claim of the petitioner afresh within fixed time frame and take decision thereon. Accordingly, the petitioner is directed to appear before the 3rd respondent on 23.09.2015 along with the reply as well as relevant documents in support of his claim. After due consideration of the explanation submitted by the petitioner and the relevant documents, if they are submitted, the 3rd respondent shall consider the same and pass appropriate orders as warranted by law within a further period of two (2) weeks. Till further orders are passed, no coercive steps shall be taken against the petitioner. If the respondent authorities hold that the petitioner is not entitled to be declared as a small farmer, it is open for the respondent authorities to conduct public auction to grant lease hold rights. In such an event the petitioner is also entitled to participate in the auction and obtain lease of the subject properties.

7. With the above observations, the Writ Petition is allowed. There shall be no order as to costs.

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

P.NAVEEN RAO,J

2nd September, 2015.
Rds