

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

WRIT PETITION Nos.19549 & 22188 of 2015

Between: -

Alluri Narayana, S/o. Ashirvadam,
Aged 50 years, Occ: Agriculture,
R/o. Dunnavaripalem Village,
Kuchinapudi Gram Panchayat,
Nizampatnam Mandal, Guntur District.
.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Endowments Department,
Secretariat Buildings, Secretariat,
Hyderabad & 3 others
.. Respondents

DATE OF JUDGMENT PRONOUNCED: 17.07.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | Yes/No |
| 3 | Whether His Lordship wish to see the fair copy of the Judgment? | Yes/No |

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.19549 & 22188 of 2015

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COMMON ORDER:

Open auction was conducted on 20.06.2012 to grant leasehold rights in respect of land to an extent of Ac. 4.05 cents in Survey Nos.584/2, 585/2, 625 and 642/2, situated at Kuchinapudi Village, Nizampatnam Mandal, Guntur District, belonging to the 4th respondent temple. The petitioner was the highest bidder in the said auction and, accordingly, lease was granted for a period of three years. The lease granted to the petitioner expired by 31.03.2015. Accordingly, the 4th respondent temple has taken steps to conduct fresh auction. Tender notification was issued on 18.06.2015 to conduct fresh auctions for grant of leasehold rights for a period of three years from 2015. Auction was proposed to be conducted on 04.07.2015, but on that day as there was no response from the bidders, auction was postponed and is now scheduled to be held on 17.07.2015.

2. When the auction notification was issued on 18.06.2015, the petitioner instituted W.P.No.22188 of 2015 challenging the conducting of fresh auction. The petitioner contended that the lease granted to him expired in 2015 and that he is entitled for renewal of lease in accordance with the Andhra Pradesh Charitable Hindu Religious Institutions and Endowment Lease Agricultural Land Rules, 2003 (for short, 'Rules 2003'), but the lease was not renewed. It is further contended that without following the due process, the petitioner cannot be evicted and without vacating the petitioner, there

cannot be fresh auction conducted. This Court by an order, dated 01.07.2015, directed the respondents to conduct auction as proposed. There was further direction that the petitioner should not be evicted for a period of two weeks. It was also ordered that the petitioner is entitled to participate in the auction. Since the auction could not be conducted on 05.07.2015 and a revised auction notification was issued, the petitioner filed W.P.No.19549 of 2015 challenging the further notification conducting auction on 17.07.2015. In this writ petition also, the petitioner raises the same contentions.

3. Heard Sri K. Srinivas, learned counsel for the petitioner, learned Government Pleader for Endowments for Respondents 1 to 3 and Smt. K. Lalitha, learned Standing Counsel for the 4th respondent.

4. Learned counsel for the petitioner contends that the petitioner was validly granted lease as a highest bidder when the auctions were conducted in June, 2012 and in accordance with the provisions contained in Rules 2003, the petitioner is entitled for renewal of his lease for a further three year period. Requesting for such renewal, the petitioner submitted a representation to the Hon'ble Minister for Endowments for the State of Andhra Pradesh and the said issue is under consideration and without granting the renewal and passing orders on the request made by the petitioner, no further auction can be conducted.

5. It is further contended that since the petitioner is in possession and enjoyment as a leaseholder, without following the due process as required under Section 83 of the Endowments Act, 1987, the petitioner cannot be evicted from the subject land and without evicting the petitioner, no fresh auction can be conducted.

6. The 4th respondent temple filed counter affidavit and sought for vacation of the interim order earlier passed by this Court in W.P.No.19549 of 2015.

7. Learned Standing Counsel submits that the petitioner was a defaulter in payment of lease amounts and, therefore, the petitioner cannot be continued to occupy the temple lands. It is further contended that in the auction notification, Condition No.26 itself prescribes that the tenant has to vacate the land by the end of February and if there is Dalwa crop, he has to vacate by 15th May. Having agreed for such condition, it is not open for the petitioner to contend that he cannot be evicted unless the procedure as envisaged by the Endowments Act, 1987, is followed. Learned Standing Counsel further contends that the petitioner being a defaulter, is not entitled to participate in the auction and, therefore, there is no valid claim for the petitioner to stop the conducting of auction. According to Condition No.27, it was specifically mentioned that for any loss caused to the crops by any means such as natural calamities like cyclones, the individual cannot claim compensation.

8. Learned Standing Counsel further submits that assuming that the Court mandates the issuing of notice, the due procedure as envisaged in Rule 5(1) of Rules 2003 shall be followed.

9. Having regard to the tender conditions, the claim of the petitioner that he is entitled to continue in possession of the land even after lapse of the lease period has no merit. Even otherwise, as fairly submitted by the learned Standing Counsel, the procedure as envisaged by Rule 5(1) of Rules 2003 shall be followed by the 4th respondent temple before evicting the petitioner. Be that as it may,

the lease granted to the petitioner was only for three years, which has expired. Thus, the question of continuation of the petitioner for further period does not arise. The petitioner has no manner of right to insist for renewal of lease. It is for the 4th respondent temple authorities to grant renewal or go for fresh auction. Ordinarily, whenever the lease is completed, the fresh lease has to be granted only after an open auction is conducted so that the temple receives fair remuneration on grant of lease and such remuneration is for the benefit of the pilgrims, who visit the temple and for all over development of the temple. Thus, it is in the public interest to conduct auction at periodical interval of three years and ordinarily it cannot be the norm of granting renewal to the existing leaseholder.

10. Thus, there is no illegality or irregularity in conducting of fresh auction for granting of lease for the subject land of the 4th respondent temple. Before awarding of lease to the successful auction purchaser, the 4th respondent temple shall follow the procedure as envisaged in Rule 5(1) of Rules 2003 to evict the petitioner.

11. Learned counsel for the petitioner finally submitted that since the auction is scheduled to be held today and since the petitioner is in Hyderabad, it is not possible for the petitioner to participate in the auction. Any representative on his behalf can be permitted to participate in the auction.

12. Subject to the procedure as envisaged by the respondents, if the petitioner is otherwise eligible, the petitioner is entitled to participate in the fresh auction to be conducted today or at any later point of time, but if the petitioner is ineligible, the petitioner cannot insist for participation in the auction to be conducted. Thus,

subject to the petitioner’s eligibility, the petitioner or his representative namely, his brother-in-law can participate in the auction scheduled to be conducted today.

13. With the above observations, the Writ Petitions are disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

P.NAVEEN RAO, J

Date: 17th July, 2015

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HON’BLE SRI JUSTICE P.NAVEEN RAO

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