

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

WRIT PETITION No.21790 of 2014

Between:

Mannava Manikyalarao,
S/o. Prasada Rao, Aged about 46 years,
Occ: Agriculture, R/o. Ganganna Palem,
Chilakalurupeta Mandal, Guntur District & another

.. Petitioners

AND

The Govt. of Andhra Pradesh,
Rep. by its Secretary,
Endowments Department,
Secretariat, Hyderabad & 3 others

.. Respondents

WRIT PETITION No.24176 of 2014

Mannava Manikyala Rao,
S/o. Prasad Rao, Aged about 46 years,
Occ: Agriculture, R/o. Gangannapalem,
Chilakaluripeta Mandal,
Guntur District.

.. Petitioner

AND

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

.. Respondents

And

WRIT PETITION No.24187 of 2014

Mannava Seshagiri Rao,
S/o. Prasad Rao, Aged about 44 years,
Occ: Agriculture, R/o. Gangannapalem,
Chilakaluripeta Mandal, Guntur District.

.. Petitioner

AND

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

.. Respondents

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DATE OF JUDGMENT PRONOUNCED: 21.07.2015

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.21790, 24176 & 24187 of 2014

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COMMON ORDER:

W.P.No.21790 of 2014 is filed by two brothers, namely Mannava Manikyala Rao and Mannava Seshagiri Rao, praying that the respondents are trying to dispossess the petitioners from peaceful possession and enjoyment of property to an extent of Ac. 9.45 cents (Ac. 4.75 cents and Ac. 4.70 cents) in Survey No.358 belonging to

Sri Vajjavari Tank, situated at Komatinenivaripalem, Chilakaluripet Mandal, Guntur District, without issuing notice and without following the due process, as warranted by the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'Act 30 of 1987'). Sri Mannava Seshagiri Rao, the second petitioner in W.P.No.21790 of 2014 filed W.P.No.24187 of 2014 challenging the orders of the Commissioner of Endowments, Hyderabad (2nd respondent), dated 04.08.2014, whereunder the earlier declaration given by the Assistant Commissioner, Endowments Department, Guntur District (3rd respondent), dated 30.05.2011, holding him as a landless poor person was set aside. Sri Mannava Manikyala Rao, the first petitioner in W.P.No.21790 of 2014 filed W.P.No.24176 of 2014 challenging the proceedings of the Commissioner of Endowments, Hyderabad (2nd respondent), dated 04.08.2014, setting aside the proceedings of the Assistant Commissioner, Endowments Department, Guntur District (3rd respondent), whereunder he was declared as landless poor person.

2. As the disputes are common in all the three writ petitions, the three writ petitions are disposed of by this common order.

3. For the sake of convenience, the parties herein are referred to as arrayed in W.P.No.21790 of 2014.

4. This Court granted interim orders in W.P.No.24187 of 2014 on 22.08.2014 granting interim direction as prayed for. Similar direction was granted in W.P.No.24176 of 2014 on 22.08.2014.

5. Praying to vacate the said interim orders, the vacate stay petitions are filed by the temple.

6. The petitioners' father was a cultivating tenant on a land belonging to the Vajjavari Tank to an extent of Ac. 9.45 cents. After the demise of their father, the said land was divided between the two petitioners to an extent of Ac. 4.75 cents in favour of the first petitioner and Ac. 4.70 cents in favour of the second petitioner and they have been cultivating. The petitioners were granted certificates by the Assistant Commissioner, Endowments Department, Guntur District (2nd respondent) declaring them as landless poor persons by referring to the extent of land they are cultivating. The extent of land under their cultivation is a dry land. According to Section 82 of Act 30 of 1987 and the rules framed thereunder, if a person is in cultivation of dry land less than Ac. 5.00 cents, he would be classified as landless poor person subject to the fulfillment of other conditions. Thus, relying on the declaration given by the petitioners and taking into consideration the extent of land of the temple being cultivated by them, the said certificates were issued. However,

subsequently complaints are filed against the petitioners' status as landless poor persons. On conducting detailed enquiry into the matter, the Commissioner of Endowments, Hyderabad, passed orders on 04.08.2014 setting aside the orders passed by the Assistant Commissioner, Endowments Department, Guntur District, declaring the petitioners as landless poor persons. These two proceedings are independently challenged by the petitioners in W.P.No.24176 of 2014 and 24187 of 2014 respectively.

7. Learned counsel for the petitioners contends that the petitioners are the landless poor persons since the land in their possession is less than Ac. 5.00 cents and, therefore, the certificate granted by the Assistant Commissioner, Endowments Department, Guntur District (2nd respondent) is valid and legal and there was no justification for the Commissioner of Endowments, Hyderabad, to set aside the said proceedings.

8. The contentions of the petitioners are denied by the temple in their counter affidavit. Learned Standing Counsel asserts that Smt. Mannava Nalini, wife of the first petitioner, contested the elections of the Gram Panchayat and in the declaration filed by her on 11.07.2013, she has stated that she owns Ac. 1.01 ½ cents at Yedlapadu Village and constructed a rice mill in an extent of 7,174 square yards in Gangannapalem Village. It is also claimed that she possess the property which would be worth about Rs.18,00,000/-, purchased on 17.03.2010. Learned Standing Counsel, therefore, submits that this declaration clearly shows that the first petitioner family is in possession of property and owns huge extent of assets beyond what is prescribed and income prescribed and, therefore, he cannot be classified as a landless poor person and, therefore, the certificate was validly cancelled by the Commissioner of

Endowments, Hyderabad, in the order impugned in W.P.No.24176 of 2014 filed by the first petitioner. Learned Standing Counsel further contends that insofar as the second petitioner is concerned, the enquiry conducted by the Assistant Commissioner, Endowments Department, Guntur District, revealed that he possessed land to an extent of Ac. 1.79 cents in Survey No.210/3 of Garlapadu Village, Vatticherukuru Mandal, Guntur District. If this land is added to Ac. 4.70 cents, it would exceed the Ac. 5.00 cents ceiling limit imposed and, therefore, he also cannot be classified as a landless poor person. Learned Standing Counsel, therefore, contends that the certificates issued by the Assistant Commissioner in the year 2011 were erroneous and they were rightly set aside.

9. Learned Standing Counsel further contends that specific assertions are made in the counter affidavit regarding holding of properties by the petitioners or their family members and the said averments are not denied. The extent of land owned by the respective petitioners or their family members were also specifically reflected in the orders passed by the Commissioner, but there is no answer to the said assertion. Learned Standing Counsel further contends that except for stating of reasons on technical pleas, no material is brought on record to show that the decision of the Commissioner is vitiated and that the order of the Assistant Commissioner declaring them as landless poor persons was valid.

10. Though the technical pleas are raised regarding the opportunity of hearing or entertainment of a complaint after long lapse of time, the petitioners have not specified even now that the findings arrived at by the Commissioner are erroneous and that the petitioners still continue to be landless poor persons. Section 82 of the Act 30 of 1987 is a beneficial provision, granting concession to

certain class of people, who are cultivating the lands belonging to the temple and if they are classified as landless poor persons. They are entitled to purchase of the said land and in case they are not able to afford to purchase, they can also take the land on lease on payment of 2/3rd of the lease value. When a person seeks to avail the said benefit, the burden lies on him to establish that he is entitled to avail the said benefit. No such material is brought on record to show that even if an opportunity of hearing was afforded to the petitioners, they would substantiate that they are the persons, who continue to be classified as landless poor persons. There is no denial of specific stand of respondent Temple.

11. As the facts narrated above would disclose that when originally the Assistant Commissioner declared the petitioners as landless poor persons, the Assistant Commissioner has only taken into consideration the total extent of Ac. 9.45 cents originally given to the father of the petitioners and subsequently divided between the two petitioners in the ratio of Ac. 4.75 cents and Ac. 4.70 cents, but the Assistant Commissioner has not considered the other aspects as now reflected in the order of the Commissioner of Endowments, Hyderabad. The assertions of the respondent temple are not denied by the first petitioner with reference to the declaration given by the wife of the first petitioner when she contested election to the post of Sarpanch wherein the properties owned by the family were disclosed. Similarly, the second petitioner has also not denied the specific assertion of the respondent temple that he owns Ac. 1.79 cents of land in addition to Ac. 4.70 cents of land he is cultivating. Thus, the petitioners cannot be classified as landless poor persons to avail the concessions provided by Act 30 of 1987 and the rules made thereunder. I, therefore, do not see any error in the decision of

the Commissioner warranting interference.

12. The Writ Petitions are, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 21st July, 2015

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HON’BLE SRI JUSTICE P.NAVEEN RAO

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