

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 25021 of 2012

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ORDER :

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It is the case of the petitioner that since 1990, he is a cultivating tenant of agricultural land to an extent of Ac.1.50 cents of wet land situated in Sy.No.439 of Budamgunta village, belongs to the 2nd respondent temple, by paying maktha as fixed by the respondents. The petitioner made an application in the year 2002 declaring him as landless poor person under section 82(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short 'the Act of 1987'). After conducting detailed enquiry, considering the material available on record and the report of the Executive Officer, the respondent declared the petitioner as landless poor person vide proceedings Rc.No.A3/1626/2004, dated 30.05.2004. The petitioner is continuing in possession of the above land and cultivating the same. That the respondents have issued proceedings dated 29.05.2008 duly extending the benefit of Section 82(2) of the Act of 1987 to the petitioner for a further period of three years from 2008-2011. The petitioner is entitled to continue as cultivating tenant under the provisions of the Act of 1987 in respect of similarly situated lands, but the 2nd respondent is obstructing the petitioner to plough the above land and also refused to receive the maktha and that he is not extending the lease period in respect of above land. Aggrieved by the same, present writ petition is filed.

2. Counter affidavit is filed by the 2nd respondent denying the averments in the affidavit filed in support of the writ petition stating that the 2nd respondent temple is registered under Section 6 (c) of the Act of 1987 and has an extent of Ac.30.94 cents of agricultural land and that the subject land to an extent of Ac.1.50 is situated in Sy.No.439 of Budamgunta Village, Kavali Mandal, Nellore District, which forms part of Acs.30.94 cents of land. That the Tahsildar, Kavali received a letter dated 02.08.2012 from one V.Jagadish Kumar Reddy, stating that the petitioner got Ac.10.00 of land and he is not a small farmer nor a landless poor person under Act of 30/87. Basing on the said letter, enquiry was

conducted and found that the petitioner is having Acs.10.00 of land and that the petitioner made false declaration for declaring him as a landless poor person. It is stated that the first respondent is taking necessary steps for filing appeal before the competent authority against the order dated 30.05.2004, by virtue of which the petitioner was declared as landless poor person and sought for dismissal of the writ petition.

3. Heard Sri Kurra Srinivas, learned counsel for the petitioner and Sri A.Srikanth Reddy, learned Standing Counsel for the 2nd respondent temple.

4. In this case, it is to be seen that admittedly, petitioner was granted landless poor certificate under Rule 3 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Land Rules, 2003. No doubt, in the counter affidavit, it is specifically stated that the petitioner made false declaration and obtained the landless poor certificate and that the 2nd respondent temple is entitled to file appeal against the same. As long as the said certificate granted by the first respondent in favour of the petitioner holding that the petitioner is landless poor person is subsisting and valid, the 2nd respondent temple is under obligation to continue the petitioner by virtue of the provisions of the Act, on payment of 2/3rd of the rent as prevailing in the market. As long as the petitioner's tenancy is valid and subsisting, the respondents cannot go for public auction in respect of the subject land and evict the petitioner. Since, in the counter affidavit, it is categorically admitted that as on today, the certificate declaring the petitioner as landless poor person is valid and subsisting, the petitioner is entitled to continue as cultivating tenant in respect of the subject land.

Accordingly, this writ petition is allowed. However, this order will not preclude the respondents from filing appeal against proceedings dated 30.05.2004, by virtue of which, the respondents declared the petitioner as landless poor person. If the respondents succeed in the appeal, it is for them to take appropriate action in accordance with law against the petitioner.

There shall be no order as to costs. As a sequel thereto, miscellaneous applications, if any pending in this Writ Petition, shall stand dismissed.

06.10.2015.

KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 06-10-2015

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