

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No. 2597 of 2009

ORDER:

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Heard learned counsel for the petitioner, learned Government Pleader for Endowments appearing for the 1st respondent, learned Standing counsel for the 2nd respondent Smt.K.Lalitha and learned Government Pleader for Land Acquisition appearing for the respondents 3 and 4.

According to the petitioners, they are the cultivating tenants of the land in Survey Nos.316, 317 and 39/9 of Hukumpeta Village, Rajahmundry Rural Mandal, East Godavari District, belonging to the 2nd respondent Temple for the last 75 years and paying the maktha without any default. They and some other similarly situated persons filed W.P.No.13890 of 2001 before this Court seeking directions not to dispossess them from the lands which are in their possession. The said writ petition was disposed of on 19.02.2002 along with a batch of writ petitions by directing the authorities not to evict the petitioners therein from the subject lands until appropriate rules are framed and enforced. It is stated that the Government of Andhra Pradesh has framed rules called "the A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003" (for short "the Rules") prescribing certain procedure to lease out the agricultural lands. According to the said rules, the 1st respondent is the competent authority to determine the landless poor persons and under Rule 5 of the said Rules, a notice has to be issued to the cultivating tenants duly informing that the lease held by them stood cancelled, by virtue of the provisions of Section 82 of the Endowments Act. When the respondents are trying to dispossess them from their

lands for allotting the same as house sites under Indiramma Programme without following the said Rules, the petitioners again approached this Court by filing W.P.No.12762 of 2008 and the same was disposed of on 19.06.2008 with a direction to the respondents not to interfere with the possession of the petitioners without following due process of law. Without initiating any land acquisition proceedings, now the respondents 3 and 4 are taking steps to evict the petitioners. Aggrieved by the same, the present writ petition is filed.

The 1st respondent filed a counter affidavit stating that the lands in question were given to the Archakas of the 2nd respondent Temple towards their remuneration for rendering Archakatvam service in the Temple and they admitted that the petitioners are in possession of the lands. It is stated that no crop can be raised in the lands and they are liable to be inundated, and so, only green grass can be raised therein. The petitioners are only the licencees to cut the green grass in the lands by paying some amount from time to time. Hence, they are not cultivating tenants and as per the amended Andhra Tenancy Act 28/2002 the provisions of Andhra Tenancy Act are not made applicable to the case on hand and the petitioners cannot claim any rights of tenancy in the lands allotted to the Archakas. Previously in Survey Nos.9/1 and 9/3 of Hukumpeta Village, the State Government acquired Acs.1.29 cents and compensation was awarded to Devasthanam and neither the Archakas nor the persons in occupation of the said land filed any objections.

It is also stated that this Court imposed ban prohibiting the State Government in acquiring endowments lands in East and West Godavari Districts by an order passed in W.P.M.P.No.13204 of 2006 in W.P.No.10547 of 2006. Thereafter, the State Government obtained permission for alienation of the lands belonging to the 2nd respondent

Temple in exchange of some other land, by an order dated 02.05.2008 passed in W.P.M.P.No.5257 of 2008 in W.P.M.P.No.204 of 2006 in W.P.No.10547 of 2006. Accordingly, after following the provisions of the Land Acquisition Act, the Land Acquisition Officer passed a consent award No.19 of 2008 dated 19.08.2008 acquiring Acs.6.93 cents of land in Survey Nos.316, 317 and S.No.449/1 and in lieu of it, he granted Acs.13.18 cents covered by Survey Nos.115, 115/2 & 116 situated at Z.Medapadu Village of Samalkot Mandal. In pursuance of the said award, the Land Acquisition Officer took possession of the lands on 20.08.2008 and since then neither the Archakas nor the petitioners have been in possession of the lands. Further, none of the petitioners filed any application under Rule 5 of the Rules claiming themselves to be landless poor persons and obtained any order of declaration.

The respondents 2 to 4 filed counters reiterating the counter affidavit filed by the 1st respondent.

The grievance of the petitioners is that without following due process of law, they are sought to be evicted. Their case is that they are the cultivating tenants of the 2nd respondent Temple. But it is stated by the respondents that the petitioners are not the cultivating tenants of the 2nd respondent Temple and further they have not filed any application under Rule 5 of the Rules claiming themselves to be the landless poor persons and obtained any order of declaration. It is also stated by the respondents that originally the lands were given to Archakas in compromise, that the proceedings under the Land Acquisition Act have already been initiated, and that after following the provisions of the Land Acquisition Act, the Land Acquisition Officer passed a consent award No.19 of 2008 dated 19.08.2008, pursuant to

which, possession of the lands was already taken on 20.08.2008. For which, no reply is filed by the petitioners and no documents are filed by them to show that they are the cultivating tenants of the 2nd respondent Temple. The petitioners have also not disputed the initiation of the land acquisition proceedings by filing any reply. It is stated by the learned counsel for the petitioners that possession has already been taken and the petitioners' case can only be considered by the 2nd respondent Temple for granting lease. In view of the categorical statement made by the 1st respondent in the counter that the land acquisition proceedings have been initiated, it cannot be said that the respondents have taken possession of the land without following due process of law. If the petitioners are the cultivating tenants of the 2nd respondent Temple having any right, they could have participated in the acquisition proceedings and made their claim. Having failed to defend their case, now the petitioners cannot file the present writ petition stating that the respondents have not followed due process of law.

In view of the foregoing discussion, I do not see any merit in the Writ Petition and the same is accordingly dismissed. No order as to costs.

Consequently, the interim order dated 12.02.2009 is vacated and miscellaneous petitions, if any, pending in the writ petition shall stand closed.

A. RAJASHEKER REDDY, J.

23rd June, 2015
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