

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT**

-
W.A.No.536 OF 2015

PC: *(Per the Hon'ble Sri Justice S.V.BHATT)*

Heard learned counsel Sri M.V.Pratap for appellant, learned Government Pleader for Endowments and learned standing counsel Sri Srikanath Reddy for respondent No.3

The Writ Appeal is directed against the order dated 12.06.2015 in W.P.No.15728 of 2015. The appellant herein filed the W.P. challenging the auction notice dated 28.05.2015 issued by 3rd respondent to auction leasehold rights in agricultural land measuring Ac.5-50cents in Survey No.639, Veerlavari Kunta, S.N. Padu Village and Mandal, Prakasam District, as illegal and without jurisdiction.

The case of appellant is that the 3rd respondent on 04.06.2014 conducted auction of leasehold rights for the subject land for the period 2014-2015 to 2016-17, namely, for three years. The bid of appellant at Rs.30,500/- was accepted for the said three years. When the lease of subject land at agreed rate of Rs.30,500/- for three years is operational, the 3rd respondent has no jurisdiction to issue auction notice dated 28.05.2015 proposing to auction the subject land.

At the time of hearing of the writ petition, the learned standing counsel representing the institution it appears from the material available on record has brought to the notice of learned Single Judge the Proceedings No.A5/3669/2014 dated 23.08.2014 of the Assistant Commissioner, Endowments/2nd respondent. Through the proceedings dated 23.08.2014, the 2nd respondent accepted the proposal of lease for one year, namely, 2014-15 instead of three years. The learned Single Judge referring to the proceedings dated 23.08.2014 and also the fact that no formal document granting lease of three years tenure was executed by the respondents in favour of appellant dismissed the writ petition. Hence, the appeal. It is required to be observed that it is not evident whether the appellant was informed of the decision dated 23.08.2014 of 2nd respondent and whether the appellant agreed to take one year lease of subject land. In view of the alternative submissions of learned counsel appearing for parties, we are not considering this objection.

At the time of hearing, the learned standing counsel representing 3rd respondent has stated that in the auction held on 28.05.2015, the 3rd respondent received bid of a third party for Rs.68,500/- for the subject land and if the prayer of appellant is accepted, the institution will be put to deprivation of income from the subject land. The learned counsel appearing for the appellant, on instructions, submits that the appellant with a view to cultivate the land for three years has invested substantial amounts and in view of the statement made by the 3rd respondent about the bid price received through the instant auction, the appellant is ready to

offer and pay Rs.68,500/- for the year 2015-16 and is prepared to offer and pay 25% over and above Rs.68,500/- for the year 2016-17 for retaining the lease hold right. The learned counsel for the appellant submits that the endeavour of the appellant is only to get back the investment made in anticipation of three years lease of subject land. The learned standing counsel fairly states that though on 28.05.2015 the auction was conducted, no formal communication is made in favour of highest bidder in the instant auction. Hence, having regard to the submissions of learned counsel appearing for the parties, we are satisfied that the Writ Appeal can be ordered as follows:

The appellant is entitled to enjoy the leasehold rights of subject land for the years 2015-16 and 2016-17 subject to the appellant paying a sum of Rs.68,500/- for the year 2015-16 and Rs.17,125/- (25%) + Rs.68,500/- = Rs.85,625/- for the year 2016-17. The appellant is directed to deposit Rs.68,500/- on or before 15.07.2015 and Rs.85,625/- on or before 15.06.2016. With the deposit of the sum, as directed by this Court, the appellant is entitled to enjoy the leasehold rights of subject land up to 2016-17. It is made clear that the arrangement now directed to be followed by the parties is for the years referred to above and it shall be open to 3rd respondent to conduct auction with the expiry of lease period 2016-17. If appellant commits default of any condition, without reference to Court, the order granted in favour of appellant shall stand discharged.

The Writ Appeal is ordered.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date: 30.06.2015
Stp