

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.234 of 2011

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Between:

Kyasa Ramulu

PETITIONER

AND

1. The Government of Andhra Pradesh rep. by its Principal Secretary, Agriculture & Cooperation (A.M.II) Department, Secretariat, Hyderabad, Andhra Pradesh, and another.

RESPONDENTS

ORDER:

This writ petition is filed for issuance of writ of Mandamus declaring the action of the respondents in not registering the plot of the petitioner situated in Agricultural Market Committee (AMC), Metpally Village and Mandal, Karimnagar District, as illegal and arbitrary.

The petitioner stated to be the convener of AMC Metpally Plot Purchasers' Committee. His case was that his father one Kyasa Narayana, during his life time,

purchased a plot in AMC Metpally in a public auction conducted on 09.02.1966. In the said auction 30 plots were auctioned by the AMC and the sale was confirmed in favour of the highest bidders and substantial moneys were also paid by the purchasers. The possession of 30 plots was shown on the PWD government road side. Immediately thereafter, the father of the petitioner died leaving the petitioner as his sole successor, and since then the petitioner was in possession of the said plot. While so, the 2nd respondent, vide notice dated 9.02.1966, informed all the plot owners not to pay the remaining amount till the 2nd respondent calls them for registration. The petitioner made a representation dated 06.09.1991 to the local MLA, who in turn forwarded the same to the Minister for Marketing. The Minister for Marketing directed the Commissioner Municipal Administration to examine the case. Though all the 30 purchasers have paid substantial moneys, and ready to pay the balance amount, the respondent authorities are not coming forward to receive the same and get registration. The petitioner further states that in similar circumstances with respect to Agricultural Market Committee Koratla some of the purchasers have approached this Court by filing W.P.No.6629 of 2002 and this Court through order dated 17.03.2010 restored the possession of the plots in favour of the purchasers. Alleging that on 09.01.2011 some persons claiming themselves to be the agents of the respondents tried to dispossess the petitioner from the plot in question, the petitioner filed the present writ petition.

Counter affidavit dated 03.07.2012 has been filed by the Secretary, AMC Metpally, denying the averments made in the writ petition. Pursuant to the auction, all the purchasers have paid part amounts and kept silent. The possession could have been delivered only on payment of total amount. Since the purchasers failed to pay the total amount even after 40 years, a paper notification dated 01.01.2007 was got published in Eenadu Telugu daily, Karimnagar Edition informing the auction purchasers to take back their amounts paid on 09.02.1966 as AMC had cancelled the auction itself and if the purchasers fail to take their amounts within 30 days from the date of publication, the amounts will be remitted to Market Committee Fund. In the said paper publication the name of the petitioner's father was shown at Sl.No.27 by showing the amount paid by him as Rs.4,190 /-. Even after the said publication, nobody turned up to take the amounts. The counter further states that the facts in W.P.No.6629 of 2002 are not relevant to the facts in the present writ petition.

None appears for the petitioner. Heard learned Government Pleader for the 1st respondent and Sri K. Upender Reddy learned counsel appearing for the 2nd respondent and perused the material placed on record.

At the out set, the relief of enforcement of alleged right by way of writ petition filed in 2011 is hit by *doctrine of laches* and is not maintainable under Article 226 of the Constitution of India, since the auction was conducted in the year 1966 and a part amount was paid and balance amount has to be paid by the petitioner.

It is the specific case of the petitioner that the respondent authorities are not receiving the balance amount and not registering the plot in his favour. Further, in the writ affidavit, no details with regard to the terms and conditions of auction were given, which are most essential requirements to be pleaded and proved for the purpose of claiming the relief of this nature. These are all factual aspects which are required to be pleaded and established by placing relevant material evidence. Therefore, the relief sought by the petitioner by way of specific performance of contract arising on account of auction conducted in the year 1966, cannot be granted by this Court in a writ petition. The said relief can be granted by a competent civil Court in appropriate civil proceedings. Even on that count, the writ petition is not maintainable.

Accordingly, the writ petition is dismissed with costs of Rs.1000/- payable to the 2nd respondent.

As a sequel, pending miscellaneous petitions, if any, shall also stand dismissed.

CHALLA KODANDA RAM, J.

19th November, 2015

Js.