

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.8493 OF 2009

ORDER

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The case of the petitioner is that he is an agriculturist and resident of Gunnepalli Agrharam Village, Amalapuram Mandal, East Godavari District. He has been in possession and enjoyment of the land admeasuring Ac.3-66 cents of dry land situated in Sy.No.11 belonging to 1st respondent Devasthanam since 30 years. It is stated that petitioner is a land less poor person owning an extent of Ac.0-70 cents of dry land in the same village. The petitioner has been paying an amount of Rs.39,000/- per year regularly towards the schedule land. While so, the 1st respondent temple issued a notice dated 13.04.2009 for auction of schedule land for a period of 3 years commencing from the year 2009-2010 to 2011-2012. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 1st respondent stating that since the petitioner was the highest bidder, lease hold rights in respect of the lands admeasuring Ac.3-66 cents in Sy.No.11 was granted to him and he has raised coconut tress in the said land. The petitioner has been paying an amount of Rs.36,000/- per year from 2007 onwards. It is stated that the same land will fetch Rs.80,000/- to Rs.85,000/- as of now. Further it is stated that a person who is in cultivation for 6 years prior to commencement of the Act 30/87 is entitled for a notice under Rule 5 of G.O.Ms.No.372. The petitioner was owning a land of about Ac.10.00 when the Act 30/87 came into force and out of which Ac.5.00 was coconut garden and another Ac.5.00 was agricultural wet land and he has been selling about Ac.1.00 each year for the last 10 years. Now he owns Ac.0.70 cents which has about 45 to 50 coconut trees. It is also stated that petitioner is running a dairy farm which is fetching about Rs.320/- per day. It is also denied that petitioner was in possession of the said land since 30 years. In fact, the petitioner was put in possession of the said

land in the year 2003 by virtue of auction conducted by the temple. After expiry of the said lease, the auction notice was issued in the year 2006 and was held on 27.03.2006. Though five persons have participated officially, the petitioner became the highest bidder with the consent of the villagers and with the support of the Sarpanch. As such he was not given any approved lease nor did he enter into any lease agreement with the temple. Hence sought for dismissal of the writ petition.

Heard the learned counsel for the petitioner and Smt K. Lalitha, learned Standing counsel for 1st respondent.

It is an admitted fact that the 1st respondent is the owner of the land admeasuring Ac.3.66 cents in Sy.No.11 which was leased out to the petitioner by virtue of auction conducted by the 1st respondent in the year 2003 and since then he is in possession of the said land. The petitioner also not disputed the said fact. Though the petitioner states that petitioner and his predecessors have been in possession of the above said land since 30 years, no evidence is produced in support of the same. The respondent in the counter states that the petitioner is not entitled for a notice to be issued since he is not in possession of the subject land for 6 years prior to commencement of the Act 30/87. However, the petitioner is entitled for a notice under Rule 5 of the A.P.Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Land Rules, 2003 (for short 'the Rules'). The respondent also contend that to declare the petitioner as a land less poor person, the petitioner would have made an application under Section 82(2) of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') and nothing prevented him from making such an application. The impugned auction notice is for a period of 3 years but by efflux of time, the said period has expired. Since it is claimed that the petitioner is in possession of the said land by virtue of the interim order granted by this Court on 03.04.2009, it is for the respondents to issue notice under Rule 5 of the Rules before evicting the petitioner. It is open for the petitioner to make

an application under Section 82(2) of the Act read with Rule 3 of the Rules.

In view of the above facts and circumstances, the writ petition is disposed of directing the respondents to issue notice under Rule 5 of the Rules before evicting the petitioner. If any application is made by the petitioner under Section 82(2) of the Act, the same shall be considered by the respondents in accordance with law. No costs.

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

A.RAJASHEKER

REDDY,J

Date: 23.09.2015

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