

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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WRIT PETITION No.12986 of 2010

ORDER:

This Writ Petition is filed seeking the following relief/s:-

“....it is prayed that this Hon’ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or direction particularly one in the nature of Writ of Mandamus declaring the auction notice dated 20.05.2010 issued by the 2nd respondent in respect of lands in R.S.No.402 and 362 admeasuring Ac.4.59 cents situated at Rajavaram village, Koyyalagudem Mandal, West Godavari District belonging to the 2nd respondent temple contrary to the provisions of Section 82 of the A.P.Charitable and Hindu Religious Institutions and Endowments Act 1987, as illegal, arbitrary and against the principles of natural justice and pass such other or further orders as the Hon’ble Court feels deem fit and proper in the facts and circumstances of the case.”

[Reproduced verbatim]

I have heard the submissions of the learned counsel for the petitioner. I have perused the writ petition and also the counter affidavit filed by the second respondent.

The petitioner sought a Writ of Mandamus to declare the auction notice dated 20.05.2010 issued contrary to the provisions of Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act 1987 (‘the Endowments Act’, for brevity) by the 2nd respondent in respect of the lands in R.S.Nos.402 and 362 admeasuring Ac.4.59 cents situated at Rajavaram village, Koyyalagudem Mandal of West Godavari District belonging to the 2nd respondent Temple as illegal, arbitrary and against the principles of natural justice.

The submission of the writ petitioner is that he is in possession of the subject lands and that he is regularly paying the makthas and that he is not liable for eviction in view of the provision of Section 82 of the Endowments Act and that the second respondent can evict him only in accordance with the procedure established by law and that in the circumstances of the case, the auction notice is illegal, arbitrary and against the principles of natural justice.

In the counter affidavit filed by the then Manager of the second respondent Temple, it is stated that auction was not conducted on 10.06.2010 and that the petitioner was declared as a landless poor person by the Assistant Commissioner vide his orders dated 20.07.2003 in RC.No.A2/4426/2003-16 and that the petitioner, who had fallen due in arrears to a tune of Rs.15,000/-, had cleared the said arrears on 10.06.2010 and that the maktha was increased by 10% and that accordingly the petitioner had agreed to pay the maktha at the increased rate and to withdraw the writ petition.

As per the submissions in the counter affidavit, which are referred to supra, now it is not in dispute that the petitioner is continuing in possession of the property as a lessee on payment of increased maktha and that he had agreed to withdraw the writ petition as the cause in the writ petition does not survive for adjudication.

Hence, the writ petition is dismissed as infructuous. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

M.Seetharama Murti, J

20th November, 2015

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