

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.11694 & 11722 OF 2015

COMMON ORDER :

These writ petitions are filed by the petitioners for a *Mandamus* declaring the auction conducted by the 5th respondent without following the procedure contemplated under Section 82 of the A.P.Charitable and Hindu Religions Institutions and Endowments Act and the A.P.Charitable and Hindu Religions Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (*for short 'the Rules,2003*) and also contemplating to confirm the auction in favour of the second highest bidder, as illegal and arbitrary and consequently to set aside the said auction and also direct the respondents not to dispossess the petitioners from the said land without following due procedure.

Since the grievance in both the writ petitions is one and the same, they are being heard together and decided by this common order.

The case of the petitioners is that they are the tenants of the agricultural lands in an extent of Ac.1.50 cents in Sy.No.538 and Ac.2.00 in Sy.No.535, respectively, situated at Thondangi Mandal belonging to the 5th respondent on the yearly Maktha. The petitioners also paid Maktha for the year 2014-2015 without any due. While so, the 5th respondent issued tender notification dated 18.02.2015 and conducted public auction in respect of petitioners' land for the year 2015-2016 to 2016-2017 on 07.03.2015. In the said auction, since the highest bidder failed to pay the amount, the respondents are going to confirm the auction in favour of the second highest bidder, which is contrary to the terms and conditions of the auction notification and also contrary to the terms and conditions of the A.P.Charitable and Hindu Religions Institutions and Endowments Act and the Rules, 2003. Though the petitioners submitted

representation before the 4th respondent on 20.03.2015, no action has been taken. Aggrieved by the action of the 5th respondent in contemplating to confirm the auction in favour of the second highest bidder, the present writ petition is filed.

Learned counsel for the petitioners submit that though the auction is held on 07.03.2015, highest bidder Sri Medisetti Ganesh, failed to pay the amount, the respondents are trying to grant the leasehold rights of the subject land in favour of the second highest bidder which is illegal. He also submits that as per Rule-14 of the Rules, 2003, the authorities have to record reasons as to why they want to accept the bid other than the highest bid. Learned Counsel for the petitioners submits that the 5th respondent cannot evict the petitioners without following due procedure as envisaged under law.

On the other hand learned Standing Counsel for the 5th respondent submits that the 5th respondent has issued paper notification saying that since the highest bidder has not come forward for paying the amount, the bid was offered to the next highest bidder as per condition No.7 of the terms and conditions of the auction notification which states that if the highest bidder has failed to come forward for paying the amount, his EMD will be cancelled and the second highest bidder will be awarded the leasehold rights of the subject land.

In this case, though auction notification was issued on 18.02.2015, the petitioners have not challenged condition No.4 and 7 wherein it is stated that the petitioners are not eligible to participate in the auction and that if the highest bidder failed to pay the amount to be paid to the 5th respondent within the prescribed time, his EMD will be cancelled and the auction will be confirmed in the name of the next highest bidder.

Learned counsel for the petitioners relied on Rule-14 of the Rules, 2003 which reads as follows;

“14. Acceptance of Bid:- Leases shall ordinarily be given to the highest bidder. Where it is proposed to accept a bid other than the highest bid,

reasons for not accepting the highest or other bids higher than the accepted shall be recorded in writing by the Executive Authority. The acceptance of the bid shall be subject to the approval of the competent authority.”

Learned Standing Counsel also submitted that the lease in favour of the second highest bidder is also approved by the competent authority. In view of the same, and in view of Condition No.7 of terms and conditions of auction notification dated 18.02.2015 and in view of the fact that the petitioners have not participated in the auction as per condition No.4 of the terms and conditions of the auction notification, they cannot question the same.

With regard to the other contention raised by the petitioners that they cannot be evicted without due process of law, is concerned, till today no notice was issued to the petitioners asking them to vacate the subject premises.

The only relief that can be granted to the petitioners is that the respondent authorities shall not evict the petitioners without following due procedure as envisaged in the rules, 2003.

Accordingly, the writ petitions are disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions if any pending in the writ petition shall stand closed.

A.RAJASHEKER REDDY, J

23.04.2015

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