

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.7463 OF 2009

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ORDER:

This writ petition is filed by Sri B.Yasodamma stating that her husband late Ramana Reddy was the statutory tenant of the land Ac.1.55 cents of dry land in Sy.No.19, 21, 533, 535 of Rebala Village, Buchi Reddypalem Mandal, belonging to the 2nd respondent temple and he died on 02.12.2008 and after his death, she is in possession and enjoyment of the subject property. When the leasehold rights of the subject land were put to auction, petitioner's husband filed WP.No.17117 of 2003 and this Court granted stay and later disposed the same on 12.12.2008 as infructuous as the proposed lease period was expired. Thereafter, the petitioner filed representation before the 3rd respondent enclosing the certificate issued by the Mandal Revenue Officer that she is a small farmer and requested to continue her tenancy on 05.02.2009. But there is no reply from the 3rd respondent. Meanwhile, the 3rd respondent issued public notice proposing to conduct auction of the leasehold rights of the subject land for the period from 2009-2010 to 2011-2012 for three years. Aggrieved by the same, present writ petition is filed.

During the pendency of the writ petitions she died, later the daughter of the petitioner filed WP.MP.No.6807 to come on record stating that the tenancy rights were conferred on her vide registered will dated 18.10.2011 and the same is allowed.

The 2nd respondent-temple filed counter stating that the status of the landless poor person claimed by the husband of the petitioner No.1 late Sri Ramana Subba Reddy does not devolve upon the petitioner No.1 on his death which took place on 02.12.2008 and that

the petitioner No.1 admittedly an encroacher without any valid lease in her favour. It is further stated that in pursuance of the auction held on 15.04.2009, the son of the petitioner No.1 has also participated and declared as successful bidder by agreeing to take lease @ Rs.16,700/- per year whereas the petitioner No.1-encroacher is paying damages of Rs.3,600/- per year.

Sri M.P.Chandramouli, Learned counsel for the petitioner submits that unless the application filed by the original petitioner Smt.B.Yasodamma seeking declaration as land less poor person, is decided, the respondent cannot go for auction for grant of leasehold rights.

On the other hand Sri A.Srikanth Reddy, learned Standing Counsel for the 2nd respondent-temple submits that the tenancy rights are not heritable and once original tenant dies, the persons who are in possession thereafter are only encroachers. They are not entitled to be declared as landless poor persons. He also submits that even the original tenant's wife died who filed the present writ petition, the legal heir of the so called original petitioner cannot be a landless poor person. Even if the original tenant is declared as landless poor the same will not enure to the benefit of the legal heirs. He also submits that the lease period for which this writ petition is filed is already over; that auction was held in the year 2015 and the leasehold rights were also conferred in favour of highest bidder; and that proceedings dated 30.09.2015 are also issued for registration of lease deed in favour of the successful bidder.

In this case it is to be seen that whether the tenancy rights are heritable or not. The petitioner No.1 stated that her application under Rule 3 of A.P.Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Land Rules, 2003, is pending and

that it is for the Assistant Commissioner to pass appropriate orders on the same. Though the legal representative of the original petitioner states that she is the daughter of the original petitioner by virtue of will deed dated 18.10.2011, in the counter it is stated that the son of original petitioner became successful bidder in the subsequent auction. In view of the same, the writ petition is disposed of directing the Assistant Commissioner to dispose of the application of the petitioner No.2 which is stated to be pending, in accordance with law. No order as to costs.

Since it is stated that lease period challenged in the writ petition is already over, the interim orders stand dissolved.

A.RAJASHEKER REDDY, J

12.10.2015

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