

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.13112 OF 2015

ORDER:

The writ petition is filed questioning the inaction on the part of the 2nd respondent-Joint Collector, Adilabad, in not disposing of the appeal filed by the petitioner against the order dated 16.10.2014 passed by the 3rd respondent-Revenue Divisional Officer, Adilabad.

The brief facts are that by 16.05.2000 2nd respondent came to be granted Occupancy Rights Certificate in favour of the 2nd petitioner. Challenging such grant, 1st petitioner filed appeal before the 2nd respondent-Joint collector. Joint Collector by his order dated 22.09.2006 in Case No.D4/I/3/2000, after enquiry and being satisfied that neither of the petitioners are entitled to be granted the Occupancy Rights Certificate and particularly basing on the entries made in the Khasra Pahani Patrak for the year 1954-55 had remanded the case to the 3rd respondent-Revenue Divisional Officer, Adilabad, to conduct a denovo enquiry. The Revenue Divisional Officer, Adilabad after denovo enquiry and after considering various material on record, passed an order dated 16.10.2014 holding that the land in fact belongs to the Balaji Venkateshwara Swamy Temple and thereby the Endowment Department was directed to be intimated about the same. In fact, it is also recorded by the Revenue Divisional Officer that by order dated 30.11.2011 the temple was already given certificates, title deeds and pattadar passbooks to the said institution. Both the petitioners having aggrieved by the said orders filed appeal before the Joint Collector.

The contention of the petitioners in the present writ petition is that pending disposal of the appeal bearing No.F1/513/2015 filed by the petitioners before the 2nd respondent-Joint Collector, Adilabad, along with stay petition seeking to stay the order dated 16.10.2014 passed by the Revenue Divisional Officer, the Joint Collector failed to pass orders in stay petition, and in the mean while the temple

authorities have proposed to put to auction the lease hold rights of the land in issue.

Learned counsel for the petitioners submits on one hand not deciding the stay application by the 2nd respondent, mean while conducting auction for leasing out the subject lands by the temple authorities, affecting the rights of the parties.

Learned Assistant Government Pleader for Revenue (Telangana) submits that the Joint Collector met with an accident and on account of which he is on leave and the delay in not passing the orders is only on account of 2nd respondent being not in office. The power to decide the appeal having been specifically entrusted in the hands of the Joint Collector and there being no other person deputed, orders could not be passed. Learned Assistant Government Pleader also points out that at any rate, it is the 1st and 2nd petitioners had filed appeal against one Chikili Laxmi Venkateshwara Shastri, S/o Narayana Shastri, resident of Adilabad, whereas the temple ought to have been made party respondent in appeal. Learned Assistant Government Pleader also raised objection that while petitioners seek to challenge the auction proceedings that is being conducted by the temple authorities, the temple authorities have not been made as party respondent in the writ Petition. In that view of the matter, learned Assistant Government Pleader prays for dismissal of the Writ Petition.

Heard both the counsel.

As contended by the learned counsel for the petitioners it is a fact that the appeal is pending before the Joint Collector. However, the technical defects, which have been pointed out by the learned Government Pleader, cannot be brushed aside. For whatever reason the temple has not been made as party respondent and in that view of the matter no order affecting the rights of the temple, especially staying of the order, can be granted in the present case. However, considering the specific plea of the petitioners that the petitioners are in peaceful possession and enjoyment of the property over the last 60 years and also the plea that there is a standing crop of cotton in the land, liberty is given to the petitioners to participate in

the auction that is scheduled to be conducted tomorrow on 29.04.2015. In the event, the petitioners are successful bidders they would continue to enjoy the agriculture land. Even otherwise if the petitioners are not successful bidders in the auction, petitioners shall be allowed to harvest the present standing crop by allowing them sufficient time. The conducting of the auction and entrusting the agricultural land in favour of successful bidder by way of lease under the provisions of the Endowment Act shall however be subject to the final orders that may be passed by the appellate authority determining the entitlement of the parties in the appeal filed against the order dated 16.10.2014. Any observations made in this Writ Petition shall not be construed as expressing any opinion with respect to the rights of the parties in any manner.

Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

Learned counsel for the petitioner is entitled to communicate the gist of the order to the respective authorities and the same shall be construed as a communication for all purposes.

JUSTICE CHALLA KODANDA RAM

Date: 28.04.2015

Ssv.