

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.28500 OF 2015

DATED:24-11-2015

Between:

G. Srinivasulu

and others ... Petitioners

And

State of Andhra Pradesh

Represented by its Principal Secretary

Endowments Department

Secretariat Buildings,

Hyderabad

Telangana

and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONERS: Mr. K.S. Murthy

COUNSEL FOR RESPONDENT NOS.1 to 3: A.G.P. for Endowments (AP)

COUNSEL FOR RESPONDENT NOS.4 and 5: Smt. K.Lalitha

THE COURT MADE THE FOLLOWING:

ORDER:

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The petitioners have become highest bidders in respect of certain pieces of land owned by respondent No.4 for grant of leasehold rights. The leases were granted in their favour for a period of three years commencing from 2014. As per the conditions of lease, the petitioners shall pay the annual lease in advance. Accordingly, they have paid the lease amounts for the year 2014-2015 at the time of commencement

of the lease period. When deposit of advance of lease amount for the year 2015-2016 fell due, the Executive Officer of respondent Nos.4 and 5 issued notices to the petitioners to deposit the same. The petitioners have then made a representation to the Executive Officer stating that the extents of the lands for which the leases have been granted to the petitioners are found less than they were notified on physical measurements. Therefore, they have asked for proportionate reduction of the lease amount. As the Executive Officer of respondent Nos.4 and 5 persisted with the deposit of the lease amount by the petitioners for the year 2015-2016, they have filed this writ petition.

No counter affidavit is filed on behalf of respondent Nos.4 and 5.

At the hearing, Smt. K. Lalitha, learned Standing Counsel representing respondent Nos.4 and 5, submitted that condition No.18 of the auction conditions envisages that if the extents of the lands proposed to be leased are found in short or excess, the successful bidder shall not raise any dispute. She has further submitted that the document containing the auction conditions was supplied to the petitioners, that the petitioners have affixed their signatures/thumb impressions on the said document and that therefore they cannot raise a dispute regarding the extents of the land, after expiry of one year lease period.

Mr. K.S. Murthy, learned counsel for the petitioners, submitted that the auction notice does not contain the said conditions and his clients are not aware of the conditions separately prescribed by the Executive Officer. He has also submitted that the signatures of his clients were taken on blank papers.

It is not possible for this Court to decide the question whether the petitioners were made aware of the separate auction conditions, which did not form part of the auction notice or not, in exercise of its jurisdiction under Article 226 of the Constitution of India. Therefore, this Court is not inclined to proceed on the premise that the petitioners are aware of condition No.18 of the auction conditions.

Be that as it may, respondent Nos.4 and 5, being endowment institutions, cannot be expected to collect the lease amount for the lands in excess of the actual extents handed over to the petitioners. But, at the same time, the petitioners cannot be permitted to claim refund of the lease amount deposited by them for the first year as they ought to have been diligent in raising this issue at the time of their taking possession. Therefore, in order to balance the interests of both the parties, the writ

petition is disposed of in the following terms.

The petitioners shall deposit the second year lease amounts within two weeks from today. On such deposit, the Executive Officer of respondent Nos.4 and 5 shall get the leased lands measured in the presence of the petitioners. If, after such measurement, it is found that the lands fall short of the notified extents, the Executive Officer shall collect only the lease amount in proportion to the actual extents of the land handed over to the petitioners. As the petitioners would be paying the second year lease amount before this exercise is undertaken, the excess amount, if any, paid by them shall be adjusted in the third year lease amount.

Subject to the above directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. Nos.36952 and 43523 of 2015 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

24-11-2015

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