

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No.14036 of 2005

ORDER:

Vide the present writ petition, the petitioner seeks direction thereby declaring the action of the third respondent in proposing to conduct auction of the temple lands on 02.07.2006 in respect of item No.5 of auction notice dated 02.06.2005, being arbitrary, illegal and violation of order dated 26.04.2005 passed in W.P.No.9572 of 2005.

2. It is stated in the affidavit of the petitioner that in the village of the petitioner, there is a temple called "Sri Kodanda Rama Swamyvari Temple" and it has got some landed properties. The petitioner had been in possession of some of the Temple lands admeasuring Ac.2.56 cents in R.S.No.10/1 and 10/2, which is a fish tank, for the past 35 years. It is further averred that the petitioner had been regularly paying an amount of Rs.6,500/- to the second respondent towards lease amount as and when there was a demand. Thus, there were no arrears as on date in respect of the said Temple lands.

3. In para 6 of the affidavit of the petitioner, he admitted that in pursuance to order dated 26.04.2005 passed in W.P.No.9572 of 2005, the petitioner preferred an appeal i.e., Appeal No.177/2005 to the first respondent. However, no orders have been passed in the said appeal and same is pending.

4. Learned counsel appearing on behalf of the third respondent has produced order dated 20.08.2005 passed in Appeal No.177/2005, whereby the first respondent passed order recording as under:

“ The Assistant Commissioner, Endowments, Vijayawada issued orders in D.DIS.NO.A5/5604/2004 rejecting the claim of appellant as Land Less Poor tenant of the land measuring Ac.6-76 Cts wet belonging to Sri Kodandarama S.T., Venkatapuram Village, Kalidindi Mandal, Krishna District.

It is contended that originally he was tenant of land measuring Ac.6-76 Cts and after new rules came into force, he surrendered Ac.4-26 and he is holding an extent of Ac.2-50 only.

Evidently the appellant was holding an extent of Ac.6-76 Cts by the time of Notice issued under rule 5(i) of the rules which exceeds the limit of Ac.2-50 Cts wet. The original lease alone is to be looked into and subsequent surrender of land is not relevant to decide the issue.

The extent of land originally under lease exceeds the limit of Ac.2-50 and the appellant is a defaulter and further the land measuring Ac.2-56 Cts is a Fishing Tank.

Therefore I do not see any valid grounds to interfere with the order of Assistant Commissioner and in the result the appeal is dismissed.”

5. In view of the above, the relief sought in the present writ petition has become infructuous. Moreover, appeared none on behalf of the petitioner on last two consecutive dates i.e., 23.03.2015 and 24.04.2015 and the position remains same even today.

6. Hence, the writ petition is dismissed as infructuous as well as for non-prosecution. No costs. Miscellaneous Petitions, if any pending, shall stand dismissed.

SURESH KUMAR KAIT, J

Date: 21.04.2016

TJMR