

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

WRIT PETITION No.15447 of 2006

ORDER:

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This Writ Petition is filed challenging the order dt.27-10-2005 in Appeal No.1 of 2005 of the 1st respondent confirming the order dt.15-12-2005 in D.Dis.No.A1/9555/2005 of the 2nd respondent.

2. The petitioner had approached the 2nd respondent stating that she is the cultivating tenant of Ac.6.30 cents in R.S.No.37/3, 37/4 (Door No.41), Ward No.7 of Vijayawada Municipal Corporation (Urban Area) belonging to 3rd respondent Matham and that she should be declared as "landless poor" person under Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"). Similar application was made by her brother-in-law one Pilla Anjaneyulu also.

3. The 2nd respondent rejected the same by order dt.15-12-2004. In the said order, 1st respondent observed that petitioner's husband Suryanarayana and his brother Anjaneyulu had been granted lease by the Commissioner

of Endowments by proceedings dt.27-03-1981 only from 1979-80 to 1984-85 and there was no lease extension subsequent thereto. It was also stated that petitioner's husband and his brother committed wilful default in payment of maktha of Rs.300/- per year to 3rd respondent and that 3rd respondent filed A.T.C.No.32 of 1997 before the Special Officer under Tenancy Act-cum- II Additional Junior Civil Judge, Vijayawada and obtained orders of eviction on 08-06-1999 against petitioner's husband, petitioner, petitioner's brother-in-law and others. It was stated that the order in the A.T. C. was not challenged by petitioner and they were evicted in May, 2001 and possession of lands were handed over to 3rd respondent. It is also mentioned that the petitioner questioned the same by way of a Revision in C.R.P.No.2204 of 2001 before this Court, which was dismissed on 09-06-2003. It was therefore held by 2nd respondent that landlord and tenant relationship between petitioner's husband and brother Anjaneyulu and 3rd respondent was severed by the competent Court on 08-06-1999 itself and possession of the land was handed over to 3rd respondent-Math on 11-05-2001 and therefore petitioners are not entitled to any declaration that they are "landless poor" under Section 82

of the Act.

4. Petitioner and petitioner's brother-in-law Anjaneyulu questioned this before the 1st respondent by filing Appeal No.1 of 2005.

5. By order dt.27-10-2005, the said appeal was also dismissed. The appellate authority, while confirming the reasons given by

2nd respondent, also held that the land is not agricultural land but it is a grazing land situated in Urban limits of Vijayawada Municipal Corporation, that the land is in possession of 3rd respondent institution since 2001 and petitioner was no longer a tenant of the said land once C.R.P.No.2201 of 2001 was dismissed by this Court on 09-06-2003.

6. Challenging the said order, this Writ Petition is filed.

7. Heard Sri V.S.R.Anjaneyulu, learned counsel for petitioner and Smt.K.Lalitha, learned Standing Counsel for 3rd respondent.

8. Learned counsel for petitioner contended that the order passed by 1st respondent confirming the order passed by 2nd respondent cannot be sustained and it is contrary to Rule 3 of the A.P.Charitable and Hindu

Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003. According to him, no notice was issued to petitioner under Section 82(1) of the Act that her lease rights stood terminated, that she became trespasser and is liable to be evicted under Section 83 of the Act.

9. This contention is untenable for the reason that the petitioner had been evicted pursuant to the order dt.08-06-1999 in A.T.C.No.32 of 1997 and possession of the land was also delivered to 3rd respondent on 11-05-2001. Also the lease granted by the Commissioner of Endowments on 27-03-1981 was only for 6 years from 1979-80 to 1984-85 and there was no subsisting lease in favour of petitioner thereafter. Merely because this Court, while dismissing C.R.P.No.2204 of 2001 filed by petitioner challenging her dispossession as per order in A.T.C.No.32 of 1997 on 09-06-2003 observed that the petitioner can work out her remedy under the amended provision of the Act 27 of 2002, that does not mean that petitioner has to be treated as a person having a subsisting lease on the day when the Act came into force and is entitled to be declared as "landless poor" on the said basis. The tenancy having been terminated through Court on 08-06-1999 itself and possession of the land

having been given to 3rd respondent on 11-05-2001, petitioner cannot be declared as a “landless poor”.

10. Therefore, I do not find any merit in the Writ Petition and it is accordingly dismissed. No costs.

11. As a sequel, miscellaneous petitions pending if any, in this Writ Petition shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 22-02-2016

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