

**THE HONB'E JUSTICE CHALLA KODANDARAM**

**WRIT PETITION Nos.19107, 19271,19294, 19298, 19299, 19301, 19303,  
19304, 19976 & 20005 OF 2012.**

**COMMON ORDER:**

In all these batch of writ petitions, petitioners questioned the impugned auction notifications issued by the respondents/Endowment Department.

It is the case of the petitioners in all these batch of the writ petitions that they are the owners of the agricultural land in different extents in different survey numbers as shown in the following table writ petition wise.

| S.No | W.P. No           | Survey No | Extent         | Legal right                                                                                                                                                                                                        |
|------|-------------------|-----------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.   | W.P.No.20005/2012 | 80        | Ac.650 cents   | Registered sale deed dt.2-4-1977and also agreement                                                                                                                                                                 |
| 2.   | W.P.No.19298/2012 | 59        | Ac.15.13 cents | Two registered sale deeds dt.14-06-1989<br>Through court auction in Ep.139/1954 in small cause case no.768/953 on the file of the district Munsif court, Kurnool and also another registered sale deed 18-04-1992. |
| 3.   | W.P.No.19301/2012 | 172       | Ac.4.54 cents  | Registered sale deed dt.15-04-1982 with registered link document dt.29-09-1937                                                                                                                                     |
| 4.   | W.P.No.19303/2012 | 172       | Ac .4.54 cents | Registered sale deed dt.4-7-1974 connecting court auction dt.15-4-1955 in E.P No. 139/1954 in small cause case no.768/953 on the file of the district Munsif court, Kurnool                                        |
| 5.   | W.P.No.19304/2012 | 147       | Ac. 5.08 cents | Agreement of sale dt.01-07-1997                                                                                                                                                                                    |
| 6.   | W.P.No.19976/2012 | 80        | Ac. 3.00 cents | Registered sale deed dt.08-12-1995, link registered sale deed dt.29-12-1971                                                                                                                                        |
| 7.   | W.P.No.19299/2012 | 59        | Ac. 2.00 cents | Registered sale deed dt.22-04-1992, with link registered sale deed bearing document number 569/1977                                                                                                                |
| 8.   | W.P.No.19107/2012 | 226       | Ac.7.86 cents  | Registered sale deed No.123 dated 03.03.1964                                                                                                                                                                       |
| 9.   | W.P.No.19294/2012 | 59        | Ac.3.00 cents  | Registered sale deed No.568/77 dated 4.8.1977                                                                                                                                                                      |
| 10.  | W.P.No.19271/2012 | 80        | Ac.9.00 cents  | Registered sale deed dated 29.12.1971                                                                                                                                                                              |

Petitioners had acquired the above said extents of lands either through the registered sale deeds/court auction/under the E.P proceedings. It is the further case of the petitioners that they are absolute owners of the property

with valid title and possession and enjoyment over the same for times immemorial. At no point of time, there was any claim from any body with respect to these lands. For the first time, the impugned auction notifications came to be issued on account of the village politics and at the instance of the then local M.L.A of Panyam constituency. The same is evident from the fact that over jealous, the 2<sup>nd</sup> respondent-Assistant Commissioner had marked a copy of the proposal to conduct the lease of the land by public auction to the M.L.A.

A counter-affidavit is filed on behalf of the 4<sup>th</sup> respondent. In the counter-affidavit, the facts asserted by the petitioner are denied for want of knowledge and sought the petitioners to put to strict proof of the same. It is stated that the respondents are not aware of the alleged court proceedings. It is further asserted in the counter-affidavit that the resurvey, resettlement registers of the respective villages disclose that the land stood in the name of the deity and the possession also is in their name. On intimation being given by the Deputy Commissioner as directed the lands to be leased out through the public auction and accordingly necessary steps have been taken. It is further asserted that the petitioners are trying to grab the temple property.

Heard the learned counsel for the petitioners and the learned counsel appearing for the respondents.

The respective sale deeds, copies of pattadar pass books and title deeds have been placed on record by the respective parties before this Court. The presumption under the Transfer of Property Act, 1882 (for short, "the Act") as well as under the Record of Rights Act, the persons in whose favour the title documents are standing are the owners and the legal presumption is that they are in possession of their respective extents. It is not in dispute, for the first time through the impugned notification the lands were sought to be put to auction. The specific assertion of the petitioners that they are having title as well as possession is vaguely denied without there being any material placed before this Court. At any rate, at this point of time on account of the stay granted by this Court, the auction proceedings have become infructuous. So far as the title and possession aspect is concerned, it is always open for the

respondent-authorities to take appropriate action in accordance with law to recover the possession, if really the petitioners do not have any right, title over the properties. However, leaving it open to the respondents to take appropriate action, if so advised, the writ petitions are allowed setting aside the impugned auction notifications making it clear that any auction can be done only after the respondents perfecting their title, in accordance with law.

Accordingly, all the writ petitions are allowed setting aside the respective impugned auction notifications issued by the respondents/Endowment Department. No order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

Date:14.11.2016,  
Gk.



**CHALLA KODANDA RAM,J**

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