

**THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM**

**WRIT PETITION No.17520 OF 2016**

**ORDER:**

The writ petition is filed challenging the proceedings dated 16.05.2016 issued by the 3<sup>rd</sup> respondent-Executive Officer.

It is the case of the petitioner that he is an agricultural coolie and poor person living below the poverty line and as the petitioner was a landless poor person, the then authorities of the respondents after duly conducting the enquiry and having found that the income of the petitioner was less than Rs.12,000/-, the petitioner was granted lease of the lands belonging to the temple in Sy.No.8 admeasuring an extent of Ac.4.72 cents situated at South Ammuluru Village, South Ammuluru Post, Thotapalli Guduru Mandal, SPSR Nellore District. The petitioner is in possession of the above said land and eking out his livelihood and he is paying maktha to the respondent authorities regularly. While things stood thus, the 3<sup>rd</sup> respondent herein all of a sudden had issued the impugned proceedings stating that since the income of the petitioner is above the income limit fixed by the Government of Andhra Pradesh, the lease of the petitioner is cancelled and an open auction will be conducted for the land in question and the petitioner was directed to hand over the lands immediately. It is further stated that the respondents authorities even without issuing any notice or conducting any enquiry as to the income of the petitioner, the impugned proceedings came to be issued. Hence, the present writ petition.

Smt K. Pallavi, learned counsel for the petitioner submits that the petitioner is a landless poor person and he is eking out his livelihood by doing agriculture in the said land. She further states that the 3<sup>rd</sup> respondent even without issuing any notice and even without conducting any enquiry as to the income of the petitioner, issued the impugned proceedings and prays to allow the writ petition.

Learned Assistant Government Pleader for Revenue opposes the writ petition stating that an alternative remedy exists under Section 4A of the Andhra Pradesh Charitable and Hindu Religious Endowment Act, 1987 (for short, the Act) and the petitioner may be directed to avail of the alternative

remedy.

Having regard to the facts and circumstances of the case, the status of the petitioner with respect to the landless poor person and that he is entitled to claim the benefit of Section 82(5) of the Act is subject to the determination that is made under the provisions of Lease of Agricultural Lands Rules, 2003 as notified under G.O.Ms.No.379, Revenue (Endowment-I) dated 11.03.2003. Further, there is a prescribed procedure in the Rules and in terms of which the petitioner is required to file an application before the 3<sup>rd</sup> respondent and accordingly liberty is given to him to file an application before the 3<sup>rd</sup> respondent. However, considering the fact that the petitioner has been cultivating the land over an extent of Ac.4.72 cents since long time, the petitioner shall be allowed to cultivate the land till the disposal of his application. Further, though the petitioner claims that the land be sold to him by invoking the provisions, the amendment of the Act shall not be read as compelling the temple/institution to sell the land merely because a particular tenant is a landless poor person and the institution cannot be compelled to sell the same to the tenant depriving the institution from the benefits of year on year revenue. It may be borne in mind that the property endowed to an institution by the donar was with an object of the earning income for meeting the expenses of upkeep of the institution for times to come. In that view of the matter, the proper understanding of Section 82 of the Act, could only be that in the event of the institution proposing to sell the land or the property, a preferential right is to be given to the tenant at a concessional rate.

Accordingly, the writ petition is disposed of giving liberty to the petitioner to submit an application to the 3<sup>rd</sup> respondent seeking to declare him as a landless poor person within a period of four weeks from today and thereafter the same shall be considered in accordance with the law within a period of four weeks. However, till the disposal of the application of the petitioner, petitioner shall be allowed to cultivate the land. No order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

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**JUSTICE CHALLA KODANDA RAM**

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Date:01.07.2016.

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