

THE HON'BLE SRI JUSTICE S.V.BHATT

Writ Petition No.11748 of 2008

ORDER :

Heard learned counsel appearing for parties.

The petitioners pray for *Mandamus* declaring the action of Respondent Nos.1 and 2 in including the lands of petitioners in an extent of Ac.2.05 guntas in Sy.Nos.236 and 237 of Mallannapalem Village, Hamlet of Pammi, Mudigonda Mandal, Khammam District, through sale notice issued in E.P.No.51/2003-04, dated 02-05-2008, as illegal, arbitrary and violative of principles of natural justice. The petitioners basing upon the registered deeds, dated 30-04-1968 and 11-04-1988 claim right and title to the land in an extent of Ac.2.05 guntas in Sy.Nos.236 and 237 of Mallannapalem Village. According to petitioners, the 2nd Respondent – Society while recovering the amount due and payable by the 3rd Respondent in E.P.No.51 of 2003-04 cannot and could not auction the properties held by the petitioners. Therefore, they prayed for setting aside the impugned notice.

The case of 2nd Respondent is that the property auctioned through notice, dated 02-05-2008 is confined and identified as Sy.No.236/A/5 in an extent of Ac.2.05 guntas and not the property claimed by the petitioners. According to the 2nd Respondent, the property claimed by the petitioners is sub-

divided as Sy.No.236/A/8 and the writ petition is filed on misapprehension of fact and the writ petition is liable to be dismissed.

The learned counsel for the petitioners replying that if the writ petition is dismissed on the assumption that the property claimed by the petitioners is not the property auctioned in E.P.No.51 of 2003-04, the petitioners will suffer irreparable loss and hardship. According to him, these are primary facts which have to be gone into by the 1st respondent and for that purpose the petitioners may be given an opportunity to file claim petition together with documents/revenue records and the 1st respondent may be directed to dispose of the objections raised by the petitioners in accordance with law.

Learned counsel appearing for the 2nd respondent submits that he has no objection for the petitioners to avail the remedy available before the 1st respondent and the 1st respondent can be directed to dispose of the objections after hearing the petitioners as well as the 2nd respondent.

Having regard to the submissions made by the learned counsel for the petitioners, I am not examining the merits of either the case of petitioners or the 2nd respondent. I am satisfied the Writ Petition can be disposed of by this order.

The petitioners are given four weeks time from the date of receipt of a copy of this order to file the

representation/objections in E.P.No.51 of 2003-04 against the proposed auction of property in the said E.P. The 1st respondent by following the procedure stipulated in this behalf and by affording opportunity to 2nd respondent disposes of the objections filed by the petitioners within a further period of six weeks from the date of receipt of the objections.

With the above observations, the Writ Petition is disposed of. Till a decision is taken and communicated to the petitioners as indicated above, the interim order granted on 09-06-2008 and extended on 16-06-2008 is directed to be maintained. No order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of.

**S.V. BHATT,
J.**

Date:23.02.2016

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