

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION Nos.19480 of 2015 & 32255 of 2016

COMMON ORDER:

W.P.No.32255 of 2016 is filed by the petitioners seeking to declare the action of respondents 2 to 4 to deliver the land of the respondent temple auctioned on 09.09.2015 to the petitioners in an extent of Ac. 4.03 cents, Ac. 3.04 cents, Ac. 3.05 cents, Ac. 4.50 cents in Survey No.76/2, Ac. 4.00 cents, Ac. 4.00 cents, Ac. 4.00 cents and Ac. 4.32 cents in Survey No.25/1, situated at Nujellapalli, J. Panguluru Mandal, Prakasam District, duly evicting the respondents 5 and 6, who are petitioners in W.P.No.19480 of 2015, as illegal and arbitrary.

The respondents 5 & 6 in W.P.No.32255 of 2016 are petitioners in W.P.No.19480 of 2015.

The case of the petitioners in W.P.No.19480 of 2015 is that the petitioners are residents of Nujellapalli Village, J. Panguluru Mandal, Prakasam District. Sri Raja Rajeswara Swamy Temple (hereinafter referred to as respondent temple) was in the management of the petitioner's family, who were looking after the temple and also doing Archakatvam service. The family was in possession of Ac. 31.02 cents of land in Survey Nos.25 and 26, Ac. 16.32 cents in Survey No.25 and Ac. 14.70 cents in Survey No.76 of the same village and that the 1st petitioner was appointed as Manager of the temple apart from being Archaka vide proceedings, dated 22.04.2014, by the Deputy Commissioner of Endowments Department, Guntur. It is further case of the petitioners that the in-charge Executive Officer made announcement in village announcing that the entire land in the petitioners' possession which is being enjoyed by the petitioners towards Archakatvam service is going to be put to public auction on 01.07.2015 to auction the leasehold rights.

Consequently, the land which belongs to the respondent temple was notified to be leased out by public auction held on 09.09.2015 and that the petitioners in W.P.No.32255 of 2016 became the highest bidders in the said public auction and the petitioners paid rents to the respondent temple on 09.09.2015 as per lease conditions under different receipts. The grievance of the petitioners is that respondents 2 to 4 have not taken any action so far to deliver possession of the said land in spite of several representations. On enquiry, the petitioners came to know that respondents 5 and 6 obtained interim order in W.P.M.P.No.25172 of 2015 in W.P.No.19480 of 2015, dated 23.07.2015, from this Court directing to conduct auction of the land, but to stop finalisation of the auction and not to evict the respondents 5 and 6 after following due process of law not withstanding the pendency of the writ petition.

Heard and perused the material available on record.

In W.P.M.P.No.25172 of 2015 in W.P.No.19480 of 2015, this Court passed an interim order, dated 23.07.2015, which reads as follows:

“The petitioners claim to be performing Archakatvam in the 5th respondent temple and they are in possession of lands belonging to the temple, which they are now cultivating in lieu of remuneration.

According to the learned counsel for the petitioners, in O.S.No.218 of 1984 dated 29.11.1999, a declaration is given in their favour that the petitioners should not be displaced without following the due process of law.

This writ petition is instituted alleging that the respondents are taking steps to disturb the petitioners without following the due process of law and proposing to conduct auction to lease the said extent of lands.

Admittedly, the land belongs to the temple and petitioners are in possession of the said lands without paying any lease to the temple on the ground that the lands are being cultivated in lieu of remuneration to them for doing Archaka service.

According to the learned Standing counsel, the Government is in the process of payment of remuneration to Archakas. However,

so far no decision is taken. Be that as it may, balance of convenience is in favour of permitting the respondent-temple to proceed to conduct auction of the subject properties, but they shall not finalise the proceedings of the auction until further orders and without following the due process, the petitioners should not be disturbed from the subject properties, if they are in possession and the respondents are directed to follow due process to evict the petitioners notwithstanding pendency of the writ petition.”

The order passed by this Court clearly indicates the manner in which auction to be conducted and also finalising of the auction and also directing the respondents to evict the petitioners in W.P.No.19480 of 2015 without following the due process of law.

Learned counsel for the petitioners in W.P.No.32255 of 2016 submitted that the Commissioner of Endowment Department, Government of Andhra Pradesh, Hyderabad (2nd respondent) fixed remuneration to respondents 5 and 6 at Rs.5,000/- per month and Rs.5,000/- towards Padithaharam per month and issued proceedings, dated 27.08.2015.

Learned Standing Counsel for the respondents informed that the respondents are proceeding further in accordance with law as per the directions given by the Court in W.P.M.P.No.25172 of 2015 in W.P.No.19480 of 2015, dated 23.07.2015.

Recording the same, both the Writ Petitions are disposed of by directing the respondents to complete the process within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in these writ petitions shall stand closed.

RAJA ELANGO,J

Date: 7th November, 2016
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