

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

**WRIT PETITION No.24963 OF 2016**

**ORDER:**

This writ petition is filed under Article 226 of the Constitution of India seeking a writ of Mandamus declaring the auction notice dated 19.7.2016 issued by the third respondent to auction the leasehold rights of the land in an extent of Acs.4.63 cents in survey No.268 situated in K.Gopalapuram of Mallepalli Village, Gandepalli Mandal, East Godavari District on 29.7.2016 as illegal, arbitrary, unjust and in violation of the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (A.P. Act No.30 of 2007) and consequently declare that the petitioner is entitled to continue as cultivating tenant in view of the proceedings in Rc.No.A3/6754/2004-2, dated 21.8.2004 issued by the second respondent determining the petitioner as landless poor person.

2. Heard the learned counsel for the petitioner, the learned Government Pleader for Endowments (A.P.) for respondent Nos.1 and 2 and learned Standing Counsel for third respondent–Sri Sitaramaswamy Vari Devasthanam, Mallepalli.

3. The case of the petitioner is that he is cultivating the land in an extent of Acs.4.63 cents in survey No.268 situated at K.Gopalapuram of Mallepalli Village, Gandepalli Mandal, East Godavari District as cultivating tenant of third respondent–Devasthanam.

4. The contention of the learned counsel for petitioner is that in spite of the fact that the second respondent issued proceedings in Rc.No.A3/6754/2004-2, dated 21.8.2004 declaring the petitioner as landless poor person, the third respondent issued the notification to auction the leasehold rights of the land which has been cultivating by the petitioner. The learned Standing Counsel for third respondent submitted that in spite of service of notice, the petitioner has not

produced '*small farmer certificate*' issued by the competent authority in order to consider his case as small farmer.

5. During the course of arguments, learned Standing Counsel fairly submitted that the third respondent is ready to continue the petitioner if he pays 2/3<sup>rd</sup> of the highest bid amount. Responding to the same, learned counsel for petitioners submitted that the petitioner is ready to pay 2/3<sup>rd</sup> of the highest bid amount. In view of the submissions made by learned counsel for both the parties, I am inclined to dispose of the writ petition, without going into merits of the case, with the following directions.

6. Let the auction may go on as per schedule. If the petitioner pays 2/3<sup>rd</sup> of the highest bid amount, third respondent shall continue him as tenant of land in an extent of Acs.4.63 cents in survey No.268 situated at K.Gopalapuram of Mallepalli, Gandepalli Mandal, East Godavari District, subject to determination of his status, as small farmer, afresh by the second respondent. The petitioner is hereby directed to file application before the third respondent to determine him as small farmer as per G.O.Ms.No.425, dated 09.11.2015 within a period of one month from today.

7. With the above directions, the writ petition is disposed of. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

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**T.SUNIL CHOWDARY, J**

Date: 27.07.2016

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