

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION No.17607 OF 2016

ORDER:

The tender-cum-auction notice, dated 02.06.2016, is challenged before this Court on the ground that the same is contrary to the orders passed by this Court in Writ Petition No.11515 of 2010, dated 09.05.2013.

It is the contention of learned counsel for the petitioner, Sri K.L.N. Swamy, that in 2007 the petitioner stood as successful bidder for converting the lands of the 4th respondent-temple into fish tanks and, in that process, he had spent huge amount in developing the fish tanks but, for various reasons, he could not exploit the fish tanks which resulted in huge financial loss to him. In those circumstances, the petitioner filed W.P. No.11515 of 2010 questioning the auction notice issued in the year 2010 and this Court, on 09.05.2013, disposed of the Writ Petition directing the 4th respondent therein to give the 1st option of refusal to the petitioner, in the event, he fails to offer the lease amount *i.e.*, offered by the highest bidder and the petitioner shall be given the opportunity to avail the same.

On the other hand, Smt. K. Lalitha, learned standing counsel appearing for the 4th respondent-temple, submits that the petitioner's lease expired in 2010 itself and it is only by virtue of *interim* order granted by this Court earlier on 19.05.2010, which continued till the disposal of the Writ Petition on 09.05.2013, the petitioner continued to enjoy the fish tanks. She further submits that even for the period 2014-15 and 2015-16, the facility, as directed by this Court, was extended. She further submits that the same facility cannot be extended this time, as it can be depriving the other bidders to participate in the auction, as they would not, at any rate, be given lease of the subject fish tanks.

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the 4th respondent-temple.

The facts are not in dispute. The only question which requires to be considered is whether the order of this Court dated 09.05.213, passed in W.P. No.11515 of 2010, entitles the petitioner to enjoy lease of the subject fish tanks for eternity?

It is not in dispute that the initial lease period was only from 2007-10 and in 2010 auctions were proposed which came to be challenged by the petitioner. It is only by virtue of the *interim* order, the petitioner continued to enjoy the fish tanks for all these years. The challenge in W.P. No.11515 of 2010 is in addition to the auction proposed to be conducted in 2010. In those circumstances, the earlier order passed by this Court cannot be construed as entitling him to continue the lease of fish tanks beyond the scope of challenge before the Court, which was limited to the auction proposed in 2010. Be that as it may, it is an admitted fact that the petitioner had the benefit of enjoying the fish tanks, though by matching the bid of the highest bidder, till 2016.

The argument of learned standing counsel appearing for the 4th respondent-temple is that if the bidders realised that they would not, at any rate, be given the lease of fish tanks, even after participating in the bid, no bidder would come forward to bid, cannot be ignored as they would not, at any rate, be given the lease and the offer would be given only to the petitioner. In those circumstances, the argument of learned counsel for the petitioner cannot be accepted.

However, his refusal for the relief sought in this Writ Petition cannot be construed as disentitling him from participating in the auction proposed to be held on 13.06.2016.

Subject to the above, the Writ Petition is disposed of, at the stage of admission. No order as to costs.

In consequence, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

CHALLA KODANDA RAM, J

Date: 07-06-2016.
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