

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 31828 OF 2012

ORDER:

This Writ Petition filed under Article 226 of the Constitution of India challenges the auction notice, dated 06.10.2012, issued by the 5th respondent, Gram Panchayat.

Heard learned counsel for the petitioner, Sri R. Sridhar, learned Government Pleader for Panchayat Raj for respondent Nos.1 to 4 and Sri Ravi Cheemalapathi for the 5th respondent, Gram Panchayat.

According to the petitioner, originally she owned an extent of Ac.1.03 cents of agricultural land in R.S.No.121 of Kothapalli Village, Bapulapadu Mandal, Krishna District, having purchased the same under a registered sale deed said to have been executed by one Vallurupalli Satyanarayana in the year 1996. It is stated that out of the said extent, the petitioner sold Ac.0.08 cents of land to one Potluru Krishna Reddy in the year 2002 and she has been in possession and enjoyment of Ac.0.95 cents.

The Kothapalli Gram Panchayat of Bapulapadu Mandal, by way of the impugned notice, dated 06.10.2012, proposed to conduct auction for leasing out the right of fishing in the village tank. The counter affidavit deposed by the Panchayat Secretary of the 5th respondent, Gram Panchayat, is filed, stating that earlier the petitioner filed W.P.No.20596 of 2012 before this Court and could not get any orders and the same is pending. It is further stated that the petitioner, being the adjacent land owner, had taken advantage of the same and encroached upon the Oora Cheruvu land and raised palm trees as if she is the owner. It is also stated that on a complaint made by the Gram Panchayat, the Tahsildar surveyed the entire land in Sy.Nos.89 and 117/3, measured the same and fixed the

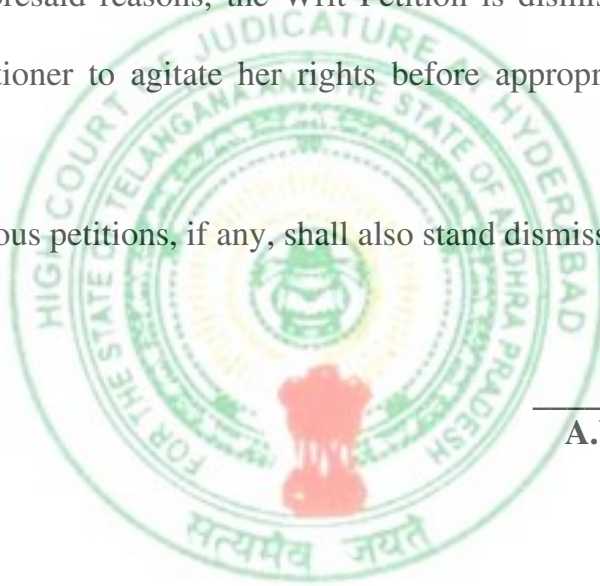
boundaries in the presence of village elders and furnished a report to the Gram Panchayat and according to said report, the land in Sy.No.89 of Kothapalli village is a Oora Cheruvu Poramboke, which vests in the Gram Panchayat. It is further stated that the petitioner is an encroacher and is not entitled for any piece of land from the Oora Cheruvu nor she is entitled for any assignment.

A perusal of the pleadings available on record discloses that there is a serious dispute with regard to the right in the subject property. In the considered opinion of this Court, the said factual controversy cannot be gone into in the present Writ Petition under Article 226 of the Constitution of India.

For the aforesaid reasons, the Writ Petition is dismissed. However, it is open for the petitioner to agitate her rights before appropriate forum, if she is advised to do so.

Miscellaneous petitions, if any, shall also stand dismissed. No costs.

Date: 13.12.2016
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A.V. SESA SAI, J