

HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.24761 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 respondent No.4 to auction the leasehold rights of the lands of an extent of Acs.4.58 cents in survey No.900/1 and an extent of Acs.4.20 cents in R.S.No.871 situated in Mallepalli Village, Gandepalli Mandal, East Godavari District 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 direct the respondents to drop all further proceedings in this regard and restrain them from interfering with the petitioners' peaceful possession and enjoyment of the above lands as leaseholders.

2. Heard the learned counsel for the petitioners, the learned Government Pleader for Endowments (A.P.) for respondent Nos.1 to 3 and learned Standing Counsel for fourth respondent—Sri Seetaramaswamy Vari Devasthanam, Mallepalli.

3. The case of the petitioners is that they, being small farmers, have been separately cultivating the lands in an extent of Acs.4.58 in survey No.900/1 and an extent of Acs.4.20 in R.S. No.871 situated in Mallepalli Village, Gandepalli Mandal, East Godavari District as tenants of fourth respondent—Devasthanam.

4. The learned Standing Counsel for fourth respondent submitted that in spite of service of notice, the petitioners have not produced '*small farmer certificates*' issued by the competent authority in order to consider their case as small farmers. The contention of learned counsel for petitioners is that so far they have not received the notices.

5. During the course of arguments, learned Standing Counsel fairly

conceded that the fourth respondent is ready to continue the petitioners if they are ready to pay 2/3rd of the highest bid amount. Responding to the same, learned counsel for petitioners submitted that the petitioners are ready to pay 2/3rd 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 petitioners come forward to pay 2/3rd of the highest bid amount, fourth respondent shall continue them as tenants in their respective portions of the land in question, subject to determination of their status, as small farmers, by the third respondent. The petitioners are hereby directed to file application before the third respondent to declare them as small farmers 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.

T.SUNIL CHOWDARY, J

July 27, 2016.
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