

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.8032 of 2006

ORDER:

Heard the learned counsel for the petitioner, Ms.K.Lalitha, learned counsel for Respondent No.1 and the learned Government Pleader for Endowments appearing for Respondents 2 and 3.

2. The sum and substance of the case of the petitioner in the present writ petition is that he has been continuing as tenant in respect of an extent of Ac.3-42 cents of land situated in R.S.No.459 of Pothavaram village, Nallajerla mandal, West Godavari district belonging to 1st respondent for the last 35 years. According to the petitioner, he hails from a poor family and belongs to Backward Class community and the subject land is the only source of his livelihood.

3. After the advent of A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Land Rules, 2003, the petitioner herein submitted an application to the 3rd respondent under Rule 3 of the said Rules to declare him as landless poor person. The 3rd respondent-Assistant Commissioner of Endowments, Eluru by way of proceedings dated 20.2.2006 returned the said application with the following endorsement.

“It is to inform that there is no provision to apply F & LLP as per G.O.Ms.No.379. Because it is only applicable to the tenants who are cultivating lands prior to 1981 as per new lease rules”.

4. According to the learned counsel for the petitioner, the said action on the part of the 3rd respondent is highly illegal, arbitrary, unreasonable and violative of very spirit and object of provisions of A.P. Charitable and Hindu

Religious and Endowments Act, 1987 and A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Land Rules, 2003 notified vide G.O.Ms.No.379 dated 11.3.2003. It is further contended by the learned counsel that 3rd respondent herein without holding any enquiry, returned the application of the petitioner herein.

5. On the contrary, it is submitted by the learned Government Pleader, so also the learned Standing Counsel for Respondent No.1 that there is no illegality in the impugned action and the present writ petition is not maintainable before this Court in view of alternative remedy of appeal before the Regional Joint Commissioner under the rules notified vide G.O.Ms.No.379 dated 11.3.2003.

6. In this context, it may be appropriate to refer to relevant rules. Rule 3 of the said rules mandates the Assistant Commissioner having territorial jurisdiction to enquire and to decide whether the cultivating tenant is a landless poor person if any such claim is made. According to Rule 4 of the said rules, any person aggrieved by the decision or order passed under rule 3 may prefer appeal before the Regional Joint Commissioner having jurisdiction. In the facts and circumstances of the case and having regard to the submissions made by the learned counsel for the petitioner and the learned Standing Counsel for Respondent No.1 and the learned Government Pleader for Respondents 2 and 3, this Court deems it appropriate to dispose of the present writ petition with a liberty to the petitioner herein to avail the above alternative remedy of appeal before the Regional Joint Commissioner and by extending the protection to the petitioner by fixing some time.

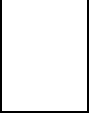
7. For the aforesaid reasons, the writ petition is disposed of, keeping it open to the petitioner herein to file appeal before the Regional Joint

Commissioner of Endowments within a period of two months from the date of receipt of this order with all relevant documents. If any such appeal is filed, the same be considered and appropriate orders be passed, in accordance with law, after giving notice and opportunity to the petitioner herein. The interim order granted by this Court on 24.4.2006 in W.P.M.P.No.10599 of 2006 shall continue for a further period of four months from today. It is made clear that if no such appeal is filed within the time stipulated above, this order will not enure to the benefit of the petitioner. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 7.6.2017
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A.V.SESHA SAI, J



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7.6.2017

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