

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

Writ Petition No.13907 of 2008

ORDER:

The order under challenge in this writ petition is the appellate order passed by the Regional Joint Commissioner, Kakinada in Appeal No. 278 of 2007 dated 11.2.2008. The petitioner herein had preferred an appeal to the Regional Joint Commissioner questioning the order of the Assistant Commissioner, Endowments in M.A. No. 1388 of 2007 dated 23.6.2007 rejecting his claim to be declared as a landless poor tenant of dry land admeasuring Acs.1.10 cents in R.S. No. 9/2 belonging to Sri Jaganmohinikesava Swamy Temple, Ryali village, Atreyapuram Mandal, East Godavari District.

The case of the petitioner, before the appellate authority, was that he was a landless poor person cultivating an extent of Acs.1.10 cents of land; his annual income was below Rs.12,000/-; and he was, therefore, entitled to the benefits under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short 'the Act').

In the order under appeal, the Regional Joint Commissioner noted that the petitioner was cultivating temple lands only from 1986-87; there was no continuation of lease; the petitioner had not entered into the said land six years prior to the commencement of the Act; he had fallen in arrears of lease rent of Rs.12,750/-; he was the highest bidder in the auction of the subject temple land held on 1.5.1986; the lease period was for three years from 1986-87 to 1988-89; after expiry of the lease period, the petitioner had continued without lease approval orders; he was not in possession of the land prior to 28.5.1981; and, as he had failed to establish that he had entered into the said land six years prior to the commencement of the Act, and there was no valid lease in his favour after expiry of the lease, his claim that he be declared as a landless poor person could not be acceded to.

Section 82 of the Act relates to lease of agricultural lands and Section 82(2) reads thus:

“In respect of leases of agricultural lands other than those lands situated in Municipalities and Municipal Corporations, held by landless poor person for not less than six years continuously, such person shall have the right to purchase such lands for consideration of seventy five per-centum of the prevailing market value of similarly situated lands at the time of purchase and such consideration shall be paid in four equal instalments in the manner prescribed. Such sale may be effected otherwise than by tender-cum-public auction.”

It is evident from a reading of Section 82(2) that it is only if an agricultural landless poor person holds lands on lease, for a period not less than six years prior to the commencement of the Act, would he have the right to purchase such lands for a consideration of seventy five per-centum of the prevailing market value of similarly situated lands at the time of purchase. Under the proviso thereto, such small and marginal farmers, who are not able to purchase the land, can continue as tenants provided they agree to pay at least two third of the market rent for similarly placed lands as the lease amount.

The requirement of Section 82(2) is for the landless person to be the lessee of agricultural land for a period not less than six years continuously, that too prior to the commencement of the Act. The Regional Joint Commissioner has recorded a finding that it is for the first time, in the year 1985-86, that the petitioner was granted lease for a period of three years. This Court, in proceedings under Article 226 of the Constitution of India, would not sit in appeal over findings of fact recorded by the appellate authority, and would not substitute its views for his. As Section 82(2) disables the petitioner from being declared as a landless poor person, the order of the Regional Joint commissioner, Kakinada rejecting his claim to be a landless poor person is in accordance with law, and does not necessitate interference.

The writ petition fails and is, accordingly, dismissed. The miscellaneous petitions, pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

7th April, 2017

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