

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.4755 of 2009

ORDER:

Heard Sri Geddam Satish Babu, learned counsel for the petitioner, learned Government Pleader for Cooperation appearing for respondent Nos.1 and 2, Smt. Bobba Vijayalakshmi, learned counsel for 3rd respondent and Sri A.S.C. Bose, learned counsel for 4th respondent.

2. In this Writ Petition, petitioner seeks a Writ of Mandamus declaring the action of respondent Nos.1 to 3 in conducting the auction of the land admeasuring Ac.0.741/2 cts situated in S.Nos.137/5 and 137/13 of P.Gannavaram village and Mandal, East Godavari District as illegal and arbitrary and to set aside the same.

3. The petitioner is a licensee from 3rd respondent in respect of the above property. Even after the lease is expired, he did not vacate the premises. He filed O.S.No.184 of 1996 in the Court of Principal Junior Civil Judge, Kothapeta, East Godavari District for permanent injunction restraining 3rd respondent not to interfere with his possession of the property. Though the suit was dismissed, A.S.No.7 of 2003 filed against the judgment in the said suit, was allowed by the Senior Civil Judge, Kothapeta, East Godavari District on 03-03-2005, directing that the petitioner shall not be evicted without following the due process of law.

4. It is not in dispute that 3rd respondent applied for permission for alienation of the property to the Government of Andhra Pradesh and on such permission being granted, property was put to auction and 4th respondent purchased.

5. Initially on 06-03-2009, there was a direction in W.P.M.P.No.6239 of 209 granting stay of confirmation of sale of property until further orders, subject to the condition of the petitioner depositing all the arrears of rent as demanded by 3rd respondent within a period of two weeks from the date of receipt of a copy of that order.

6. Subsequently, W.V.M.P.Nos.942 and 11 of 2010 were filed to vacate the said order. On 24-01-2011, the interim stay was made absolute observing that the petitioner shall be entitled to be in possession of the property in view of the decree passed in his favour in A.S.No.7 of 2003 and 3rd respondent shall initiate appropriate proceedings in law for eviction of the petitioner. It was directed that the petitioner shall continue to pay lease amounts including the arrears, if any, till he is evicted. If the petitioner commits default in payment of such lease amounts, 3rd respondent shall take steps to recover thereof. It is observed that the purchase of the property by 4th respondent shall await result of the Writ Petition.

7. Learned counsel for the petitioner contended that in view of the injunction in his favour granted in A.S.No.7 of 2003, the 3rd respondent could not have sold the property to 4th respondent.

8. Admittedly, the petitioner is claiming to be only licensee or lessee of 3rd respondent. He has not set up any title to the property in question. As long as his possession is not disturbed, in view of the order in A.S.No.7 of 2003, he cannot have cause for any complaint even if the property is sold because in law, there is no prohibition for an owner to transfer property which is in the occupation of a tenant or licensee to a third party.

9. Therefore, I am of the considered opinion that the petitioner has no locus to file the Writ Petition and question the transfer of title by 3rd respondent to 4th respondent in any manner.

10. Accordingly, the Writ Petition filed by him challenging the action of respondent Nos.1 to 3 conducting auction of the said property cannot be maintained. It is accordingly dismissed. The petitioner shall also pay costs of Rs.2,000/- (Rupees Two Thousand only) to 3rd respondent within four weeks.

11. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-08-2017
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