

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.22773 of 2017

ORDER:

This writ petition is filed by the petitioners, under Article 226 of the Constitution of India, seeking to declare the action of the 4th respondent in issuing notices, dated 17.06.2017, directing the petitioners to evict the lands, which are detailed in auction publication, dated 01.07.2017, and consequential paper publication, dated 01.07.2017, for auction with regard to auction of lands on 11.07.2017, without giving reasonable opportunity to approach the appellate authority, as illegal and arbitrary and consequently set aside the notices, dated 17.06.2017, and auction publication, dated 01.07.2017.

2. Heard learned counsel for both sides and perused the material available on record. With the consent of learned counsel for both sides, the writ petition is taken up for disposal at the stage of admission.

3. It is the case of the petitioners that the petitioners, who are below lower middle class in the society, are the statutory tenants of the lands belonging to the 4th respondent since 70 years and that they are in occupation of the said lands as tenants and eking out their livelihood by cultivating the said lands and that the petitioners are not having any other source of income. On 17.06.2017, the 4th respondent issued notices to the petitioners demanding to vacate the said lands alleging that the petitioners have not entered into a prior lease with the said authorities and that the petitioners are not paying Maktha for

the said lands to the 4th respondent authority and have been continuing in the said lands as encroachers contrary to the Lease Rules, 2003, and if the petitioners would not vacate the said lands, they are entitled to take action in both civil and criminal manner and ultimately it is intimated to the petitioners that if the petitioners are having any grievance with regard to the said notices, then the petitioners are entitled to approach Endowments Tribunal of Peddakakani by way of an appeal.

4. The main grievance of the petitioners is that in view of the impugned notices, dated 17.06.2017, and consequential auction publication, dated 01.07.2017, the petitioners' right to approach the appropriate appellate authority within reasonable time is taken away and if the said auction is conducted on 11.07.2017 as per the said auction notice, dated 01.07.2017, the petitioners may not have any opportunity of establishing their case before the appellate authority and ultimately petitioners' right of appeal will be infringed and the petitioners may not have any opportunity to establish their case.

5. On perusal of the record, it is evident that on 17.06.2017, notices were issued by the 4th respondent to the petitioners to show cause the petitioners as to why they should not be evicted and in the said notices, it is also stated that if the petitioners are having any objections with regard to the notices, then the petitioners are entitled to file an appeal before the Endowments Tribunal at Peddakakani. Having issued the impugned notices, dated 17.06.2017, without giving any opportunity to the petitioners to prefer an appeal before the

Endowments Tribunal, Pedakakani, the respondents have issued auction notice on 01.07.2017 with an intention to conduct the auction on 11.07.2017. Hence, the petitioners approached this Court seeking a remedy to set aside the impugned notices, dated 17.06.2017.

6. Taking into consideration the facts and circumstances of the case, this Court is of the view that the impugned notices, dated 17.06.2017, are liable to be set aside.

7. Accordingly, the Writ Petition is allowed by setting aside the impugned notices, dated 17.06.2017, issued by the 4th respondent to the petitioners. The petitioners are directed to prefer an appeal before the Endowments Tribunal, Pedakakani, on or before 30.07.2017 against the show cause notices, dated 17.06.2017, issued by the 4th respondent and after filing of an appeal by the petitioners, the respondent authorities are directed to take appropriate action, in accordance with law.

RAJA ELANGO, J

Date: 11th July, 2017

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