

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

W.P.No.17752 of 2008

ORDER:

Heard and perused the material available before the Court.

The Order dated 12.05.2008, passed by the Joint Commissioner, Multi Zone-I, Endowments Department, Kakinada in Appeal No.1/2008 dated 12.05.2008 to the extent of restricting leasehold rights to an extent of Acs.2-75 cents situated in Rs.No.380/2 of Nagampalli Village of Seethanagaram Mandal, East Godavari District is under challenge in the present writ petition.

2. According to the petitioner, originally her husband, late Sri Mulagala Rama Rao was the cultivating tenant of the land admeasuring Ac.6-39 cents situated in Sy.No.380/2 of Nagampalli Village of Seethanagaram Mandal, East Godavari District. The subject land belongs to the third respondent Choultry. It is further averred in the affidavit filed in support of the writ petition that the petitioner's husband passed away on 31.05.2004 and thereafter petitioner has been continuing as tenant and the third respondent has been receiving the Maktha. Petitioner herein submitted application before the Assistant Commissioner of Endowments, Rajahmundry, claiming the status of landless poor person as stipulated under Section 82 (2) of the Endowments Act. The Assistant Commissioner of Endowments vide order in M.A.No.899 of 2006 dated 15.04.2006 declined to recognise the petitioner as small farmer, but requested the Executive Officer to continue the petitioner for a further period of three years on enhanced Maktha of Rs.9,000/- per year.

3. Challenging the validity of the said order passed by the Assistant Commissioner of Endowments, petitioner herein filed appeal under Rule 4 of

the Rules framed under Section 82 of the Act vide Appeal No.1/2008. The Regional Joint Commissioner, first respondent herein vide the order under challenge dated 12.05.2008 allowed the appeal, declaring the petitioner as landless poor person while directing continuation of the lease in respect of Acs.2-75 cents. The said order passed by the Regional Joint Commissioner/first respondent, restricting the claim of the petitioner only to the extent of Ac.2-75 cents is under challenge in the present writ petition.

4. According to the petitioner, the order passed by the Regional Joint Commissioner is erroneous, contrary to law and is opposed to the provisions of the Endowments Act, 1987 and the Rules framed there-under. It is further submitted by the learned counsel that the Regional Joint Commissioner/appellate authority passed the impugned order without properly appreciating the material available on record. It is also the statement made in the affidavit filed in support of the writ petition that the subject land is dry land but not wet land as observed by the respondent authorities.

5. On the contrary, it is strenuously contended by the learned Government Pleader appearing for the respondents 1 and 2 and Smt. K.Lalitha, learned Standing Counsel for the third respondent that there is absolutely no error nor there exists any infirmity in the impugned order and in the absence of the same the order passed by the first respondent is not amenable for any judicial review under Article 226 of the Constitution of India.

6. On the application submitted by the petitioner herein, claiming the status of landless poor person under the provisions of Section 82 of the Endowments Act, 1987, the Assistant Commissioner of Endowments, Rajahmundry, initiated enquiry and declined the relief in favour of the

petitioner herein, but only requested the Executive Officer of the Choultry to continue the petitioner for a further period of three years on an enhanced Makta of Rs.9,000/- per year and to submit proposals to the competent authorities for confirmation.

7. A perusal of the order passed by the appellate authority/Joint Commissioner, clearly discloses that the petitioner herein did not adduce any documentary evidence to establish her contention as regards the nature of the property, and on the other hand, the pattadar passbook issued by the Tahsildar pertaining to the subject land was produced by the respondents wherein the subject land is described as wet land. It is also clear from the impugned order that the respondents made available copy of the Adangal in respect of the subject land wherein also it is clearly mentioned as Pallam (Wet). Obviously, taking into consideration, the said documents, the Regional Joint Commissioner passed the order under challenge, declaring the petitioner herein as landless poor person under Section 82 of the Endowments Act and directed continuation of lease only in respect of Ac.2-75 cents. Since the order passed by the appellate authority/first respondent herein is supported by valid and convincing reasons, this Court does not find any justification to meddle with the said order, in the absence of any perversity pointed out.

8. For the aforesaid reasons, the writ petition is dismissed. As a sequel, miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:24.07.2017
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.17752 of 2008

Dated: 24.07.2017

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