

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 22956 of 2015

ORDER:

1) The present writ petition came to be filed with the following prayer:

“seeking issuance of writ of mandamus declaring the auction notification dated 07.07.2015 issued by the fourth respondent to conduct public auction scheduled to be held on 27.07.2015 or on any other subsequent date for leasing out agricultural land admeasuring Ac.9.50 cents situated in Sy.No.61/ 1 of Parchuru Revenue Village, as illegal, contrary to Section 82 of the Endowments Act and landless poor certificate issued by the third respondent in favour of the petitioners under statutory rules made thereunder, determining the status of the petitioners as landless poor and offending Articles 14 and 21 of the Constitution of India besides discriminatory and without jurisdiction and consequently to *set aside* the same.”

2) The averments in the affidavit filed in support of the writ petition would show that the petitioners herein were cultivating agricultural dry land admeasuring Ac.4.00, Ac.3.50 cents and Ac.2.00 in Sy.No.61/ 1 of Parchur Village, respectively, for about 3 ½ decades by paying lease amounts without any default. It is stated that the petitioners herein approached the 3rd respondent, who after making enquiry, issued certificates stating that the petitioners are landless poor persons and that they are entitled

for the benefits under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short “the Act”). While so, the 4th respondent issued a notification, dated 07.07.2015, for conducting public auction on 27.07.2015, in respect of the lands which the petitioners claim to be in possession. Aggrieved by the said notification, the present writ petition came to be filed.

3) By an order, dated 24.07.2015, this Court passed the following order:

“Petitioners claim to be the landless poor persons and rely on certificates issued in their favour. While so, the respondent Tempe is proposing to conduct auction to grant fresh lease of the lands to an extent of Ac.9.50 cents in Survey No.61/1 of Parchuru Revenue Village and Mandal, Prakasham District.

The matter requires consideration.

In the meanwhile, as proposed, the respondents are entitled to conduct auction. However, the auction as proposed may go on, but the auction proceedings shall not be finalized. If the petitioners are in possession of the subject lands, they shall not be displaced until further orders. The petitioners are also permitted to participate in the auction, but their participation does not forfeit their rights as claimed in the writ petition.”

4) The main ground urged by the learned counsel for the petitioners is that since the certificates issued by the 3rd

respondent declaring the petitioners are landless poor persons has become final they are entitled to all the benefits under Section 82 of the Act. It is stated that the petitioners are entitled to all the benefits provided to small and marginal farmers. Since the petitioners have been cultivating the land and have been in possession of the same by paying lease amounts every year, it is urged that the action of the authorities in auctioning the said land as illegal, improper and incorrect.

5) A counter came to be filed by the 4th respondent admitting that the petitioners are cultivating different extents of land belonging to the temple. It is further stated that in the year 2005 the petitioners were determined as landless poor persons and the lease was extended for three years @ Rs.3,500/- per acre. Later it was extended upto 2008 by enhancing the lease amount to Rs.5,000/- and in the year 2011 it was further enhanced to Rs.9,000/-. It is stated that in the year 2014, the temple sought to increase the lease amount by enhancing the same to 2/3rd of the market value but the same was not accepted by the petitioners. It is further admitted that in the year 2005 the petitioners have been declared as landless poor persons and certificates were issued to that effect. Though a notice came to be issued on 16.06.2016 to all the petitioners, calling upon them to produce necessary certificates showing their income, the petitioners failed to produce the same. After giving sufficient time, auction notice came to be issued. Since the petitioners failed to produce the income certificates, they cannot continue

with the status of landless poor persons. Having regard to the above, it is urged that there are no merits in the writ petition and the same is liable to be dismissed.

6) As stated earlier, the petitioners herein claimed to be in possession of the property by virtue of lease agreement alleged to have been entered and also basing on the payments said to have been made by them. They also placed reliance on the certificates issued in the year 2005 to show that they are landless poor persons and their income is Rs.10,000/- per annum. One fact which requires to be noted is that the certificates are of the year 2005 and no reply came to be filed to the notice issued on 16.06.2015 calling upon the petitioners to produce their income certificates. If really the petitioners are landless poor persons or that they are small or marginal farmers, nothing prevented them from producing their income certificates before the authorities and claim possession over the land. However, the 4th respondent authorities admit issuance of certificate in the year 2005 and also issuance of subsequent notice in the year 2015.

7) The issue is whether the petitioners can be continued to be in possession of the land when they have failed to act on the notice, dated 16.06.2015, issued by the 4th respondent asking them to produce their income certificates.

8) A reading of the order passed by the Court on 24.07.2015 show that the respondents are entitled to conduct public auction as proposed but however the auction proceedings shall not be

finalized. It was further stated that if the petitioners are in possession of the subject land they were not be displaced until further orders. It is also stated that the petitioners are also permitted to participate in the auction. However, their participation in the auction does not forfeit their rights as claimed in the writ petition.

9) It is to be noted that no documents have been filed to show as to how the petitioners claim to be in possession of the property, but the 3rd respondent issued certificates declaring the petitioners as small farmers. These certificates are of the year 2005. Their present status is neither placed before the Court nor was any effort made by the petitioners to give reply to the notice dated 16.06.2015, wherein they were asked to furnish their income status. Therefore, the petitioners cannot claim as a matter of right that they are entitled for all the benefits under the Act.

10) In view of the interim order granted by this Court, the auction was conducted and the petitioners have also participated in the said auction. Hence the authorities are directed to finalize the auction proceedings. If the petitioners were found to be successful bidders and if they submit documents showing that they are small or marginal farmers, the authorities shall consider their case, failing which the authorities shall proceed in accordance with law.

11) With the above direction, the writ petition is disposed of.

There shall be no order as to costs.

12) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

03.04.2017
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