

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

WRIT PETITION No.29167 of 2017

ORDER:

Challenge in the present writ petition is to the order passed by the Assistant Commissioner of Endowments, Ongole, Prakasam District, third respondent herein, vide proceedings Rc.No.A6/2875/2017, dated 21.08.2017.

2. The petitioner stood as the highest bidder in the public auction held on 30.07.2014 in respect of the leasehold rights of the lands admeasuring Ac.13-07 cents in Sy.No.57/4B of Nuthalapadu Village, Parchur Mandal, Prakasam District, belonging to respondent No.4 - Devasthanam, for a period of three years i.e., 2014-2015, 2015-2016 and 2016-2017, subject to payment of lease amount of Rs.1,15,000/- per annum. As the said period was coming to an end, a public auction notification was issued on 12.05.2017 proposing to lease out the subject lands for a period of one year i.e., 2017-2018. On the ground that he would be entitled for extension of lease for a further period of one year, the petitioner herein filed W.P.No.17258 of 2017. This Court, in WPMP.No.21108 of 2017 in W.P.No.17258 of 2017, passed an interim order on 25.05.2017 permitting the respondents to proceed with the auction, but directed not to finalise the same. Subsequent to the said orders, auction was conducted on 29.05.2017 and respondent No.5 herein stood as the highest bidder by offering a sum of Rs.5,01,000/-. By way of an order dated 05.07.2017, this Court disposed of the said writ petition and the operative portion of the said order reads as under:

“11. Inasmuch as no orders are passed on the representation 18.05.2017 made by the petitioner seeking extension of lease, suffice it direct the 3rd respondent to consider the representation made by the petitioner in terms of Rule 8(3) of the Rules and the GO referred to above and pass appropriate orders thereon, in

accordance with law, within a period of two weeks from the date of receipt of a copy of this order. Till then, interim order granted by this Court on 25-05-2017 and extended from time to time, shall continue. The writ petition is disposed of accordingly. Miscellaneous petitions, if any pending in this case shall also stand disposed of. There shall be no order as to costs.”

3. Thereafter, respondent No.3 issued the impugned proceedings dated 21.08.2017, informing the petitioner that he can continue the lease of subject lands for a further period of one year, subject to payment of Rs.5,01,000/- i.e., the amount fetched in the public auction held pending W.P.No.17258 of 2017. In the above background, the present writ petition came to be filed questioning the proceedings of respondent No.3 dated 21.08.2017 and consequently sought for a direction to the official respondents to continue the petitioner as lessee for a period of one more year in respect of subject lands in terms of Rule 8(3) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short, the Rules).

4. Heard Sri N.Subba Rao, learned counsel for the petitioner, learned Government Pleader for Endowments (A.P) for respondent Nos.1 to 3 and Sri A.Sreekanth Reddy, learned counsel for respondent No.4 and Sri M.S.Prasad, learned Senior Counsel, representing Sri B.Parameswara Rao, learned counsel for respondent No.5, apart from perusing the material available before the Court.

5. It is contended by the learned counsel for the petitioner that the impugned action on the part of respondent No.3 in insisting the petitioner for payment of Rs.5,01,000/- for continuation of the lease in favour of the petitioner is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India and opposed to the very spirit and object of the provisions of the

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, the Act) and the Rules framed thereunder. He further contended that the impugned action of respondent No.3 is contrary to Rule 8(3) of the Rules.

6. Learned counsel for the petitioner further contended that the subject lands are drought affected lands and, as the entire Parchur Mandal is declared so, the official respondents ought to have extended the lease in favour of the petitioner for one more year subject to payment of same maktha amount as was paid by him for the earlier lease period. He further submitted that the certificates issued by the Tahsildar, Parchur Mandal dated 23.06.2017 and the Deputy Executive Engineer, N.S.J.C. O & M Sub Division, Konanki dated 22.06.2017 also show the nature of the subject lands as rain fed lands and, hence, respondent No.3 should have ordered continuance of the lease of the petitioner for one more year, subject to payment of same maktha amount as was paid by him for the earlier lease period, in terms of Rule 8(3) of the Rules.

7. On the contrary, it is contended by the learned Senior Counsel appearing for respondent No.5 that the petitioner has no right to request for extension of the lease period and is not entitled for any benefit under Rule 8 of the Rules. It is also submitted that respondent No.5, in the auction held pending the earlier writ petition, stood as the highest bidder and offered a sum of Rs.5,01,000/- towards lease amount and also paid the said amount to respondent No.4 Devasthanam, but in view of the pendency of the present writ petition, the official respondents are not confirming the lease in favour of respondent No.5 and, in the result, the land is left fallow.

8. Learned Government Pleader and the learned counsel for respondent No.4 have supported the impugned action on the ground that the same involves the interest of the Devasthanam.

9. In the above backdrop, now the issue that emerges for consideration of this Court is “whether the petitioner is entitled for any relief from this Court under Article 226 of the Constitution of India”. The provision of law, which is germane for the purpose of resolving the issue in the present writ petition, is Rule 8 (3) of the Rules, which reads as follows:

“ **8. Lease Period:-** (3) Whenever crops fail in a locality due to natural calamities, the lease of lands can be extended for a further period of one year for the same rate without enhanced of the rental. Such relief can be extended only when a serious natural calamity occurs and the Government notifies those mandals as calamity affected Mandals.”

10. It is very much evident from a reading of the above Rule that the said Rule has been incorporated by the State with a laudable object, obviously keeping in view the interest of the farmers. The said Rule enables the authorities to extend the lease for a further period of one year for the same rate without enhancement of the rentals only if the contingencies stipulated therein exist.

11. According to the petitioner, since his case squarely falls within the conditions prescribed under Rule 8(3) of the Rules, respondent No.3 ought to have been extended the lease of the petitioner by one more year subject payment of lease as was paid by him for the earlier lease period. In support of his plea, he placed on record the orders of the State Government issued in G.O.Ms.No.10, Revenue (DM.II) Department, dated 12.11.2016. In the said GO, the State Government, pursuant to the report furnished by the District Collector, Prakasam and, keeping in view the recommendations of the

Committee constituted, declared 23 mandals in Prakasam District as drought affected mandals including subject Mandal i.e., Parchur. In the said GO, the State Government also directed the District Collector, Prakasam to ensure deletion of the notified municipal/urban areas and areas falling under permanent assured irrigation sources, urban mandals which are not declared as drought affected. It also directed the District Collector to issue a notification as mentioned in Annexure-I. Thereafter, the District Collector, Prakasam issued a consequential notification bearing Rc.No.D.4/2612/2016, dated 29.11.2016. In the annexure to the said notification, against Parchur Mandal, 14 villages are shown as drought affected villages.

12. Learned counsel for the petitioner has placed on record the endorsement bearing Rc.ASO/182/2017, dated 26.05.2017, issued by the Tahsildar, Parchur Mandal, wherein it is clearly shown that the subject village i.e., Nuthalapadu, where the subject lands are situated, is also shown as drought affected village. In addition to the same, the certificates issued by the Tahsildar, Parchur Mandal dated 23.06.2017 and the Deputy Executive Engineer, N.S.J.C. O & M Sub Division, Konanki dated 22.06.2017 also demonstrate, in clear terms, that the subject lands are rain fed lands.

13. Since the State Government incorporated Rule 8(3) of the Rules with a laudable object of safeguarding the farmers from the onslaught of natural calamities, the said provision of law is required to be construed, keeping in view the object behind the same. A perusal of the order impugned shows that respondent No.3 placed reliance on the report of the Executive Officer of respondent No.4 and came to the conclusion against the petitioner, obviously without taking into consideration the abovesaid information and the object behind the

provision of law under Rule 8(3) of the Rules. The said exercise undertaken by respondent No.3 is highly preposterous and not in consonance with Rule 8(3) of the Rules and, in the opinion of this Court, respondent No.3 ought to have permitted the petitioner to continue for another year subject to payment of the same lease amount which he paid for the earlier period.

14. For the aforesaid reasons, the writ petition is allowed, setting aside the impugned proceedings of respondent No.3, dated 21.08.2017, to the extent of directing the petitioner to pay the bid amount fetched in the auction conducted pending earlier writ petition and consequently respondent Nos.1 to 4 are directed to extend the lease in favour of the petitioner for one more year, subject to payment of the same lease amount which he paid for the earlier period, in terms of Rule 8(3) of the Rules. Consequently, miscellaneous petitions, if any pending in this writ petition shall stand disposed of. There shall be no order as to costs.

Date: 31.08.2017
TJMR

A.V. SESA SAI, J