

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.10995 OF 2017

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the action of the respondents in seeking to evict the petitioner from the land i.e. Acs.3.10 cents in R.S.No.316 of Ballipadu Village, Tallapudi Mandal, West Godavari District, which is in the petitioner's possession as a tenant of the 4th respondent, without notice and without conducting enquiry as the petitioner was declared as landless poor person by the 3rd respondent, as illegal and arbitrary and consequently, direct the respondents to desist themselves from evicting the petitioner from the subject land and continue the petitioner as tenant of the 4th respondent.

The case of the petitioner is that by proceedings, dated 27.06.2006, the Assistant Commissioner, Endowments, Euru, had determined the petitioner as a small farmer and thus, he is entitled to the protection under Section 82 of the Endowments Act. Without there being any enquiry, and only by considering the income that is being derived by the petitioner from the leased lands, the 4th respondent is threatening to evict the petitioner and proposing to conduct public auction of the land which is in possession of the petitioner. As a matter of fact, as on date, a sum of Rs.32,000/- per annum is being paid by the petitioner as lease amount.

Learned Standing for the 4th respondent while opposing the writ petition contends that it is a fact that the petitioner was determined as a small former in the year 2006, however, in view of the amendments to the Andhra Pradesh Charitable and Hindu Religious Institutions and

Endowments Lease of Agricultural Lands Rules, 2003, the status of a tenant is required to be determined for every three years. In that view of the matter, the determination made earlier cannot come to the aid of the petitioner. Learned Standing Counsel would also assert that on account of continuous enjoyment of the lands by the petitioner, it cannot be said that the petitioner remains to be small farmer for all these years and at any rate, the said aspect is required to be determined by the competent authority and thus, she prays for a direction to the petitioner to approach the Assistant Commissioner of Endowments.

Considering the respective submissions and as there is no dispute that the amended Rules mandate re-determination of the status of the tenant, whether he continue to be a small farmer or not on periodical basis, the interest of justice would be served, if an opportunity be given to the petitioner to approach the 3rd respondent.

Accordingly, the Writ Petition is disposed of and the petitioner is directed to file an application to the Assistant Commissioner of Endowments – 3rd respondent seeking to determine his status, within a period of two (2) weeks from the date of receipt of a copy of this order, and as and when such application is made, within a period of four (4) weeks thereafter, the 3rd respondent shall complete the determination of the status of the petitioner, after giving due opportunity to the petitioner.

No order as to costs. As a sequel, miscellaneous petition pending if any, shall stand closed.

CHALLA KODANDA RAM, J

March 28, 2017
KTL