

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.14939 of 2006

ORDER:

It is the case of the petitioner that the second respondent temple issued a notification on 06.05.2004 for sale of an extent of 0.26 ½ cents of land in R.S.No.482 of Tanuku of West Godavari District, through public auction on 24.05.2004; that he became the successful bidder by quoting a lump sum of Rs.9,55,000/- and in fulfillment of the tender conditions, he deposited 1/3rd of the bid amount i.e., Rs.3,18,000/-; that the Executive Officer of the second respondent temple sought permission of the first respondent – Commissioner, Endowments Department, Hyderabad, through the Regional Joint Commissioner, Endowments Department, Kakinada, to confirm the bid in favour of the petitioner; that in the meanwhile, one Lakasani Rama Chandra Rao, S/o Subbanna, claiming that he is the cultivating tenant of the land, belonging to the second respondent temple, admeasuring Ac.0.30 cents and Ac.0.35 cents situated in R.S.Nos.482 and 134/1A respectively of Tanuku, approached this Court by way of filing Writ Petition No.19475 of 2004 challenging the auction proceedings and obtained interim stay of his dispossession from the said land; that on coming to know the

same, the petitioner got impleaded as the fifth respondent in the said Writ Petition and filed a vacate petition therein, and finally, the said Writ Petition came to be dismissed on 23.11.2005; that thereafter, the petitioner submitted a representation, dated 23.02.2006 to the second respondent temple with a request to register the subject land in his favour only and thereby, the Regional Joint Commissioner, Endowments Department, Kakinada, vide Rc.No.A2/2357/2005, dated 15.04.2006, basing on the report of the Manager of the second respondent temple as well as the representation of the petitioner, sent a proposal to the first respondent for confirmation of sale of the subject land in favour of the petitioner and that the first respondent on the ground that the public auction was held on 24.05.2004, there is increase in the cost of the land as two years have elapsed and keeping in view the interest of the institution, issued proceedings, dated 16.06.2006 rejecting such proposal. Challenging the said proceedings, the present Writ Petition is filed.

The first respondent filed a counter-affidavit stating that registration could be done in favour of the highest bidder and at any rate, it is the petitioner, who is to be blamed for the delay, as, he initially, sought registration of the land jointly in his favour and the third party which was not permissible; that Writ Petition

No.19475 of 2006 filed by the very person in whose favour the petitioner sought joint registration of the subject land was dismissed by this Court vide order, dated 23.11.2005 and that as there is increase in the property value and keeping in view the interest of the institution, the first respondent issued the impugned proceedings rejecting the confirmation of the sale of subject land in favour of the petitioner.

Sri Venkateswara Rao Gudapati, learned counsel for the petitioner, contends that initially, the petitioner sought the land to be registered jointly in favour of himself and one Lakasani Rama Chandra Rao, but, on being informed that the same cannot be done, the petitioner was ready to get the land registered in his name by paying the balance bid amount; that in Writ Petition No.19475 of 2004, the respondent authorities did not file counter-affidavit nor seek vacation of the interim stay granted by this Court and the said order of interim stay came to be vacated only at the instance of the petitioner and that as there is no fault on his part, the petitioner cannot be put to loss and thereby, he prays for setting aside the impugned proceedings.

On the other hand, learned Standing Counsel appearing for the second respondent temple submits that the first respondent is the only authority to confirm the sale of immovable property and

that by taking into consideration the abnormal increase in the value of the land, the first respondent appeared to have rejected the confirmation of sale of the subject land in favour of the petitioner, as such, there is no arbitrariness on the part of the first respondent in issuing the impugned proceedings.

A perusal of the material available on record discloses that the petitioner had no role to play with respect to the filing of Writ Petition No.19475 of 2004 and at his instance only, the said Writ Petition came to be dismissed on 23.11.2005 and that immediately thereafter, the respondents had not taken steps and it is only on 16.06.2006, by the impugned proceedings, the first respondent rejected the confirmation of sale of the subject land in favour of the petitioner mainly on the ground that there is increase in the land value in the interregnum period.

From the above, it is evident that there is no fault on the part of the petitioner and that the ground taken by the first respondent while refusing to confirm the sale cannot be a good ground, particularly, in the absence of any delay on the part of the petitioner.

It is to be noted that as on date, there are some persons occupied the subject land.

In view of the foregoing discussion, normally, this Court allows the present Writ Petition. But, keeping in view the overall facts and circumstances of the case, this Court initially, suggested to the learned counsel for the petitioner to ascertain whether the petitioner would be willing to take the subject land by paying the present market value. Thereupon, the learned counsel for the petitioner on instructions submitted that as it involves cumbersome process, the petitioner is ready to receive the amount paid by him towards security deposit with interest @ 12%.

The learned Standing Counsel appearing for the second respondent temple had filed before this Court an additional affidavit, in which, it is asserted that an amount of Rs.3,18,000/- was in fact, kept in a fixed deposit with Central Bank of India and as on date, the accumulated amount is Rs.5,59,588/-.

As the second respondent temple had utilized a sum of Rs.52,464/- (interest earned for the period from 24.05.2004 to 24.05.2007), it is just that interest is to be calculated thereon at the rates applicable to it. As per the counter-affidavit of the second respondent, a total sum of Rs.52,123/- is required to be added as interest on Rs.52,464/- for the period from 24.05.2007

to 21.07.2018. Thus, in all, a sum of Rs.5,59,588/- is available with the second respondent temple.

Having regard to the above and in the light of the fair submission of the learned counsel for the petitioner that the petitioner would accept the aforesaid amount with reasonable rate of interest, this Writ Petition is disposed of with the direction to the second respondent temple to pay a sum of Rs.5,59,588/- to the petitioner within a period of 15 days from the date of receipt of a copy of this order, failing which, it is liable to pay interest @ 9% on the said amount till the date of payment.

At this juncture, the learned Standing Counsel for the second respondent temple submits that for making payment to the petitioner, approval of the first respondent is required and thereby, prays for issuance a direction to the first respondent to do the needful.

In view of the above, the first respondent is directed to issue necessary proceedings to the second respondent temple so as to enable it to pay the required amount to the petitioner, as and when the second respondent sought approval therefor.

Miscellaneous Petitions, if any pending, shall stand closed.

There shall be no order as to costs.

CHALLA KODANDA RAM, J

1st AUGUST, 2018.

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