

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.21751 of 2015

ORDER:

This writ petition is filed to declare the action of the 3rd respondent in trying to dispossess the petitioners from the property in an extent of Ac.1.05 cents in New Sy.No.154/R (Old Survey No.141/R) situated in Ward No.6, S.Atchyuthapuram Gram Panchayat, Suryaraopet village, Kakinada Rural, East Godavari District, as illegal and arbitrary.

The case of the petitioners is that they are in real estate business; in the year 2012, they have entered into development agreement-cum-general power of attorney with Smt. Kopisetty Ramayamma, who inherited the subject property under succession; pursuant to the development agreement, the subject property was handed over to them but the 3rd respondent is trying to dispossess them.

Counter affidavit has been filed on behalf of the 3rd respondent stating that as per the recitals in Section 43 register the institution is the absolute owner of the land measuring Ac.2.57 cts in Sy.No.79/3 situated at Sarpavaram village, Kakinada Rural and Ac..0.58 cts in Sy.No.154 (old Sy.No.141) situated at Suryaraopeta, Kakinada, totalling Ac.315 cts; the said land was leased out to one Sri Kopisetty Appanna and after his demise, his son Edukondalu was cultivating the land and he expired in the year 1997 and thereafter his wife Smt. Kopisetty Ramayamma is cultivating the

land; the institution has issued form 5(1) notice under Notice No.14/2014 dated 6.5.2003 directing the Koppisetty Ramayamma to vacate the land; the said property was donated to the institution vide Document No.2416/34 dated 25.7.1934 and hence, the averment that the legal heirs of Koppisetty Yedukondalu, son of Ramayamma, have inherited the subject property under succession and purchased under registered sale deed No.2416/1934 is false and that the department has issued pattadar pass books and title deed in the name of choultry for the entire extent of Ac.1.03 cts in Sy.No.154; Smt. Koppisetty Ramayamma filed OS.No.321/2002 when the Government has proposed to acquire the land belonging to the choultry stating that she is tenant on the land and the said suit was dismissed on 6.1.2006.

It is further stated in the counter affidavit filed by the 5th respondent that if the petitioners are disputing the title of the choultry, they have to approach the Endowments Tribunal under Section 87(1)(c) of Act 30/87 claiming right over the property.

Heard the learned counsel for the petitioner, learned counsel for the respondents and perused the record.

As seen from the writ affidavit, the petitioners entered into development agreement in the year 2012 but the respondents are disputing the same. However, on 15.7.2015, this Court directed both the parties to maintain *Status quo* as on that date, which was extended from time to time upto October, 2015 and thereafter the said order was not extended. As there is dispute with regard to the title over the subject land, the petitioners are at liberty to approach the Endowments Tribunal.

Accordingly, the Writ Petition is disposed of giving liberty to the petitioners to approach the Endowments Tribunal under Section 87(1)(c) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date: 04/12/2018

Note: CC in five days

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