

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 2592 of 2009

O R D E R:

Petitioners claim that they are in possession and enjoyment of agricultural land admeasuring Acs.10.85 cents in Survey No.61 of Kagithalapur Village, Manubolu Mandal, Sri Potti Sriramulu Nellore District, which is classified as 'Gayalu' (Government Waste Land). While so, respondent No.3 Temple with a view to auction the leasehold rights in respect of land admeasuring Acs.20.65 cents in Survey Nos.52, 53 and 54, issued a notification, dated 20.11.2008. The petitioners assert that the said notification does not contain Survey No.61 and that they had raised a paddy crop and it is ready to harvest. Their grievance is that respondent No.3 is interfering with their possession unauthorisedly, as such, they filed this Writ Petition seeking a direction to the respondents not to interfere with their possession and enjoyment over the subject land, without following due process of law.

On 12.02.2009, while admitting the writ petition, this Court directed respondent No.3 not to interfere with the peaceful possession and enjoyment of the petitioners over the land in question, without following due process of law.

In the counter-affidavit, respondent No.3 asserts that the petitioners are not in possession of the subject land at any point of time; that one Venkataramana Reddy, who is a resident of

Kagithalapur Village, grabbed the land, belonging to the Government, to an extent of about Acs.25.00 situated adjacent to Kondur Satram and he transferred the said land in the name of his wife and brother-in-law and thereafter, sold the same to different people about one year back and that the said Venkataramana Reddy occupied and dug a fish pond in an extent of Ac.0.10 cents of land out of Acs.10.89 cents and pumped water into it from the bore-well situated in his land and now, he intends to grab the total land admeasuring Acs.10.89 cents, as such, he has set up the petitioners. He further asserts that the land in question was put to auction on 01.02.2008 and petitioner No.1 attended the auction proceedings and also signed on the list and that the said Venkataramana Reddy also attended the auction and having failed in it, he has now set up the petitioners. He further asserts that the petitioners have produced the auction notice, dated 20.11.2008, issued with respect to Acs.20.65 cents of land situated in Survey Nos.52, 53 and 54, for which, auction was held on 01.12.2008 and they suppressed before this Court as to the issuance of auction notice for auctioning Acs.64.18 cents of land in Survey Nos. 61 to 68 and 51/1, 55 and 56. He also asserts that in the auction, one Ravindra became the highest bidder and has raised paddy crop on the land in question.

Respondent No.4 filed a counter-affidavit stating that the subject land is classified as 'Gayalu' and as a matter of fact, pattadar pass books were issued in favour of Sri Ramalingeswara Swamy Temple *vide* Katha No.1630, dated 22.03.2012; that

pursuant to the order, dated 15.09.2009, passed by respondent No.2, auction notification was issued to conduct auction on 01.12.2008 for a period five years i.e., 2008-09 to 2012-13 and when one Ravindra became the successful bidder in the said auction, the authorities found that the petitioners raised paddy crop in the subject land by encroaching into it and when they were asked to vacate the land, the petitioners filed the present writ petition seeking a direction to the respondents not to interfere with their possession; that thereafter, respondent No.2 conducted auction for the leasehold rights of the subject land and one Gowri Shankar was declared as highest bidder for the period from 2017-18 to 2019-20 *vide* proceedings, dated 25.01.2018, and when enquired the petitioners, they informed that they raised the paddy crop during the year 2009 and harvested the yield and since then, they never raised any crop. He also asserts that at present, the highest bidder raised the crop.

Sri J.Ugra Narasimha, learned counsel for the petitioners, submits that the subject land is classified as 'Gayalu' and the petitioners were in possession of the same, as evident from the counter-affidavit of respondent No.4, and therefore, they could have been dispossessed only by following due process of law.

On the other hand, learned Standing Counsel for respondent No.3 submits that as a matter of fact, the petitioners were never in possession of the subject land and they were only set up by Venkataramana Reddy, who occupied the land over an

extent of Ac.0.10 cents, and it is not in the knowledge of the revenue authorities that who was in possession of the same. He further submits that by the date of passing the interim order by this Court and pursuant to the auction conducted on 01.12.2008, I.Ravindra was the highest bidder and had taken possession and in fact, he cultivated the land over an extent of Acs.64.18 cents for the period from 2008-09 to 2012-13. He also submits that as a matter of fact, the petitioners and Venkataramana Reddy participated in the auction and that the land continued to be in possession of the Temple, which, in turn, has been conducting auction, as such, the assertion of the revenue authorities that the said land is 'Gayalu' is without any basis and thereby, prays for dismissal of the writ petition.

It is the case of the petitioners that respondent No.3 is illegally trying to dispossess them from the land in question and they can be evicted only by following due process of law. They did not dispute the fact that by the date of the interim order passed by this Court on 10.02.2009, the auction was conducted and one I. Ravindra became the successful bidder and they were not in possession of the subject land from 2009 onwards. It may be noted that though it is the assertion of respondent No.4 in the counter-affidavit that the land in question is classified as 'Gayalu', he clearly stated that respondent No.3 came to be granted pattadar pass books with respect to the subject land. Therefore, it is clear that the title of the property vests in respondent No.3. It is the specific assertion of respondent No.3 that there was yet

another auction notice issued on 20.11.2008 proposing to auction the subject land also. The statements of the petitioners recorded by the revenue officials on 26.09.2008 would show that they were allowed to harvest the crop in 2009. Even assuming that the land in question is classified as 'Gayalu', it is for the revenue authorities to explain in what circumstances, respondent No.3 came to be granted pattadar pass books. The said aspect does not require any enquiry in the present writ petition, as there is no challenge to the pattadar pass books issued in favour of respondent No.3. Therefore, as on date, no relief can be granted to the petitioners.

For the aforesaid reasons, the writ petition is dismissed leaving it open to the petitioners to canvass their grievance, if any, in appropriate legal proceedings.

Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:08.08.2018

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