

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION NO.8663 OF 2009

ORDER:

This Writ Petition is filed seeking a direction to the second respondent to receive the balance bid amount from the petitioners for confirmation of sale of land in public auction held on 29.09.2000 belonging to Sri Chenna Kesava and Group Temples, B.Kotha Kota Village and Mandal, Chittoor District, without insisting for payment of interest at 12% per annum with effect from 14.10.2000 as per the proceedings of the first respondent dated 28.11.2008.

The case of the petitioners is that the respondents issued public auction notice for sale of dry lands belonging to Sri Chenna Kesava and Group Temples in the year 2000. The petitioners participated in the said auction held on 29.09.2000 and that they became the highest bidders; they deposited 1/3rd of the bid amount; the third and fourth respondents directed the petitioners to pay the remaining bid amount within the time prescribed; in spite of confirmation of sale, the petitioners could not pay the balance amount and get the sale deeds registered because of the failure of the monsoons; on 28.11.2008, the second respondent accorded permission for sale of confirmation of the land with a condition to pay the balance 2/3rd amount with interest at 12% per annum from 14.10.2000; all the nationalised banks are providing interest at 8% and hence, asking the petitioners to pay interest at 12% from 14.10.2000 is highly excessive and prays for a direction to confirm the sale by accepting 2/3rd amount from the petitioners without insisting for the interest at the rate of 12% per annum.

On 27.04.2009, this Court granted interim direction directing the second respondent to receive the balance of 2/3rd bid amount from the petitioners for confirmation of sale of land without insisting for interest at 12% per annum with effect from 14.10.2000 as per the proceedings of the first respondent dated 28.11.2008 by duly directing the respondents 3 and 4 to register the sale deeds in favour of the petitioners.

The respondents 1 and 2 filed counter-affidavit along with the vacate petition, contending that the second respondent-Commissioner, Endowments, vide memo dated 28.11.2008, granted permission to allow the petitioners to pay the balance amount with interest at 12% per annum; the Assistant Commissioner, Endowments, Chittoor vide memo dated 07.05.2009 given a direction to the temple to implement the orders of this Court; that the price of the land has increased.

A counter affidavit along with vacate stay petition has been filed by the fourth respondent stating *inter alia* that the sale of the land was held on 29.09.2000; the confirmation of sale was given by the Commissioner on 25.02.2009; the petitioners paid 1/3rd of the bid amount; the Commissioner by letter dated 07.08.2000 recommended their case and in pursuant thereto, the Government issued memo dated 29.11.2008 permitting the petitioners to pay the balance 2/3rd amount with interest at 12% per annum from 14.10.2000; since the price of the land is increased now, the Writ Petition is liable to be dismissed.

Heard the learned counsel for the petitioners, learned Assistant Government Pleader for Endowments and the learned Standing Counsel for the fourth respondent-Temple.

As seen from the record, the auction was conducted in the year 2000 and the auction was confirmed on 25.09.2003. The petitioners did not pay the balance 2/3rd amount till the year 2008. According to condition No.6 of the auction conditions, if the highest bidder fails to deposit the balance amount within 15 days of the confirmation by the committee, 1/3rd amount paid by the auction purchaser shall be forfeited, and the land should be sold in public auction again. Basing on the representation of the petitioners, the Government issued a memo dated 28.11.2008 granting permission to pay the balance amount with interest at 12% per annum with effect from 14.10.2000.

As the petitioners did not pay the said amount, Government cancelled the memo dated 28.11.2008, vide memo dated 17.08.2009 and directed the Executive Officer to dispose of the subject land by way of public auction. When the auction was held in the year 2000, the petitioners ought to have paid the entire amount within a reasonable time thereafter. The petitioners did not make any attempt to pay the balance 2/3rd amount. The Government, taking a lenient view, issued memo dated 28.11.2000 granting permission to the petitioners to pay the balance amount with interest at the rate of 12% per annum from 14.10.2000. As seen from the counter affidavit filed by the fourth respondent-Temple in June 2009, the land value at the time of the auction i.e. in the year 2000 was Rs.46,000/- per acre and that the price of the land would be easily more than Rs.2,00,000/- per acre in the year 2009. In spite of granting permission by the Government vide memo dated 28.11.2000 to the petitioners, they slept over the issue and did not make any attempt to pay the balance amount

after participating in the auction. Having regard to the facts and circumstances of the case, the discretionary jurisdiction of this Court under Article 226 of the Constitution of India cannot be exercised.

The Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(KONGARA VIJAYA LAKSHMI, J)

13th November 2018
RRB

