

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.15711 of 2008

Order:

This Writ Petition is filed questioning the action of the first respondent in resorting to conduct public auction, vide public auction notice dated 10.07.2008, to the extent of land admeasuring Ac.7.00 in D.No.302 (new D.No.302/1A1&D.No.302/1C1), Korenepadu village, Vatticherukuru Mandal, Guntur District, without taking possession of the land either from the landlords of the petitioners or from the petitioners by following due process of law, as illegal and void and a consequential direction was sought to set aside the public auction notice dated 10.07.2008.

The case of the petitioners is that the father of the respondents 2 and 3 and one Kidambi Nammalwar have given the land admeasuring Ac.7-00 in D.No.302 (new D.No.302/1A1&D.No.302/1C1), Korenepadu village, Vatticherukuru Mandal, Guntur District, on lease to the petitioners' fathers about 30 years back; for the last 30 years the fathers of the petitioners and after their death the petitioners are paying rents every year to the respondents 2 and 3 or their father; the first respondent issued the impugned auction notice dated 10.07.2008 stating that the subject land belongs to the first respondent – Temple; no eviction proceedings have been issued against the landlords of the petitioners or against the petitioners; if the land belongs to the first respondent Temple, the petitioners have to be declared as landless poor persons in view of Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987; the first respondent – Temple cannot lease out the land without taking possession from the petitioners.

This Court, while admitting the Writ Petition on 22.07.2008, passed an interim order in WPMP No.20363 of 2008 directing the auction proposed under the impugned notice dated 10.07.2008 may go on, but the same shall not be confirmed and liberty was given to the petitioners to participate in the auction.

The first respondent – Temple filed counter affidavit along with vacate stay petition stating, *inter alia*, that the Temple is the absolute owner of the subject land; the pahanies and RSR copy also show that the land belongs to the first respondent – Temple; the petitioners are never in possession of the Temple property; the Mandal Revenue Officer issued pattas in favour of the Temple deity, hence the petitioners are not entitled to the Temple lands; the Deputy Commissioner of Endowments, Warangal, directed the Executive Officer of the first respondent – Temple to conduct public auction of the temple lands; accordingly, public auction was conducted on 23.07.2008, however, in view of the interim orders of this Court, the same could not be confirmed; a person who does not personally cultivate the lands cannot be called as a cultivating tenant and prayed for dismissal of the writ petition.

Heard learned counsel for the petitioners and learned Standing Counsel for the first respondent – Temple. None appeared for the respondents 2 and 3.

Learned counsel for the petitioners contended that the petitioners are in possession of the subject land and that if the first respondent wants to evict them they have to follow the procedure as contemplated under Section 83 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987.

Learned Standing Counsel for the first respondent – Temple, on the other hand, contended that the subject land belongs to the Temple and

that no lease deed whatsoever has been filed by the petitioners to show that the Temple has leased out the subject land to them and they claim that they obtained lease from the respondents 2 and 3 who are no way concerned with the subject land. He further contended that the Xerox copies of receipts filed by the petitioners along with the writ petition, which are in Telugu, do not show the particulars of the land such as survey number, village name etc., but in the English translation the survey number and village name are mentioned by the petitioners. He further contended that the pahanies of the year 2006-07 clearly show that the Temple is the owner and in possession of the subject land and as this Court directed the first respondent Temple not to finalize the auction the subject land is kept vacant and prays to dismiss the Writ Petition.

As seen from the record, the receipts filed by the petitioners, which are in Telugu, to show their possession over the subject land do not contain the survey number of the subject land or the name of the village, but the English translated copies reflect the survey number and the name of the village. Admittedly, no lease deed is filed by the petitioners to show that the land was given to them on lease either by the unofficial respondents 2 and 3 or by their father. Except photos and the receipts, no other document has been filed by the petitioners to show their possession over the subject land on lease. On the other hand, the first respondent filed copy of ryotwari patta granted in the name of the first respondent – Temple, copy of map, copies of Adangals and copy of Survey and Settlement Register issued by the Revenue Officer in favour of the Temple showing that the subject land belongs to the Temple.

Be that as it may, even though the auction notice was issued on 10.07.2008, in view of the interim orders of this Court, the auction was not finalized and the subject lands are kept vacant for the last 10 years.

Since the impugned auction itself was for a period of three years from 2008 to 2011 and the said auction period was already expired long back, the cause in the Writ Petition does not survive for adjudication and the matter has become infructuous.

Accordingly, the Writ Petition is dismissed as infructuous. The first respondent – Temple is at liberty to proceed in accordance with law. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date: 06.11.2018
Nsr



KONGARA VIJAYA LAKSHMI, J.

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI



Date: 06.11.2018

Nsr