

• THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

+ WRIT PETITION No.15005 OF 2008

% 05th July, 2018.

WRIT PETITION No.15005 OF 2008

Merla Venkateswara Rao,
S/o. Ramakrishnayya,
Aged 48 years, cultivation,
R/o. Ryali,
Atreyapuram Mandal,
East Godavari District.

PETITIONER

VS.

\$ The Regional Joint Commissioner,
Multi Zone – I,
Endowment Department,
Kakinada, East Godavari District and others

RESPONDENTS

! Counsel for the petitioner : Sri S.Subba Reddy

^ Counsel for the respondents : G.P. for Endowments
Smt. K.Lalitha

< Gist:

> Head Note:

? CITATIONS:

HON'BLE SRI JUSTICE CHALLA KODANDA RAM**WRIT PETITION No.15005 OF 2008****ORDER:**

This writ petition is filed under Article 226 of Constitution of India, which is in the nature of Writ of Certiorari, questioning the orders dated 23.06.2007 of the Assistant Commissioner, Endowment Department, Rajahmundry, East Godavari District – 2nd respondent herein, as confirmed by the orders dated 11.02.2008 of the Regional Joint Commissioner – 1st respondent herein.

2. Petitioner herein claims to be a landless poor person and sought benefit of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (herein after, 'the Act'). It is the contention of the petitioner that he, being the landless poor person, has satisfied the conditions and was eligible to be declared as landless poor person on account of the fact that his income does not exceed Rs.1,000/- per month and further contends that he does not own residential property exceeding 200 square yards in Urban Area. The other contention of the petitioner is that he is tenant of the agricultural land and in those circumstances, he ought to have been declared as a landless poor person and was eligible for the benefits under Section 82 of the Act.

3. The Assistant Commissioner – 2nd respondent herein, after elaborate enquiry, had recorded a finding that the petitioner was not a tenant as on the date of commencement of the Act 30 of 1987, dated 28.05.1981; he was a chronic defaulter of payment of Maktha and as on the date of passing of the orders, the due amount that has to be paid by the petitioner is Rs.5,070/-; there are no continuation orders approving his lease and thereby, he is not a cultivating tenant in terms of the Andhra Pradesh (Andhra Area) Tenancy Act, 1956 and he also does not possess a registered lease agreement between himself and the temple authorities. For all the above reasons, petitioner is not eligible to be declared as a landless poor person and consequently cannot avail the benefits under Section 82 of the Act.

4. The Appellate Authority also considered the same and recorded a finding that as per the records the petitioner was highest bidder of the temple land for lease hold rights on 27.05.1999 and the lease period was for three years and thereafter, after expiry of the lease, he continued further period, however, without approval orders. Further he was also not a tenant as on the crucial date i.e., 28.05.1981. In those circumstances, the Appellate Authority confirmed the orders of the Primary Authority.

5. Sri S.Subba Reddy, learned counsel appearing for the petitioner, vehemently contends that the petitioner satisfied

all the conditions particularly that he being landless poor person earning less than Rs.1,000/- per month is not being disputed at all and further he also continued the lease as a tenant, admittedly from the period 27.05.1999 onwards, for more than six years. In those circumstances, the petitioner assails the orders and seeks to declare him as a landless poor person under Section 82 of the Act.

6. Learned Government Pleader as well as learned standing counsel opposed the writ petition and submit that there is no error apparent for this Court to interfere particularly in exercise of Certiorari jurisdiction.

7. Having considered the respective submissions, at the outset, it may be noted that now it is settled that the benefit of Section 82(2) of the Act would enure to such of those tenants who were in occupation as on the date of Act 30 of 1987, coming into force i.e., the crucial notified date is 28.05.1981. Admittedly, the petitioner became the tenant of the land for a period of three years, being the highest bidder, pursuant to the public auction on 27.05.1999 and he further continued the said lease for a period of three years even there is no such continuation. Though the said continuation has not been objected by the respondents, it would not enure the petitioner to claim benefits under Section 82(2) of the Act. As per the precondition for availing the benefits under Section 82(2) of the Act, petitioner shall be an existing cultivating

tenant of the lands as on the notified date. It may also be noted that with effect from the notified date, there was no practice of leasing out the lands for more than three years and also leasing out the lands has to be done only through public auction. In no circumstances, an individual highest bidder shall have the benefit of renewal for more than six years. That being the statutory restriction and there being no vested right in the petitioner and in view of the finding of fact which is recorded, which is unassailable, there is no merit in the writ petition. Therefore, this writ petition is dismissed.

8. At this juncture, it is submitted by the learned counsel for the petitioner that by virtue of the interim orders of this Court, petitioner continued to cultivate the subject land and at present, there is a standing crop. Hence, the respondents are directed to allow the petitioner to harvest the standing crop for this agricultural season.

9. Accordingly and with the above observation, this writ petition is dismissed. Miscellaneous petitions pending consideration, if any, in this case shall stand closed as a consequence. There shall be no order as to costs.

CHALLA KODANDA RAM, J

05.07.2018

*Note: LR copy to be marked.
B/o. SS*