

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

I.A.No.2 of 2018

in/ and

WRIT PETITION No.18448 OF 2018

COMMON ORDER:

I.A.No.2 of 2018 is filed to vacate the order dt.06.06.2018 passed in I.A.No.1 of 2018 in W.P.No.18448 of 2018.

2. With the consent of counsel for petitioner, the Government Pleader for Panchayat Raj appearing for respondents 1, 2, 4 & 5, the Government Pleader for Forest appearing for 3rd respondent, Sri G.Sheshadri, Standing Counsel appearing for respondents 6 & 7, and Sri V.R.Reddy Kovvuri, Standing Counsel appearing for 8th respondent, both the vacate petition and the Writ Petition are heard together and disposed of by this common order.

3. Petitioners have filed this Writ Petition questioning the action of the respondents 6 and 7 in permitting the 8th respondent to cut and carry away the plantation raised by respondents 1 and 3 when he did not fulfill the auction conditions stipulated in the Auction dt.27.03.2018 held by the 6th respondent-Gram Panchayat.

4. Petitioners are residents of Ganugupenta Village of Kondapuram Mandal, SPSR Nellore District.

5. In between 1991 and 1993, the District Forest Officer and Grampanchayat raised Eucalyptus and Casurina trees on the

land of extent Acs.1083 in survey No.383/1 of Ganugupenta Village. Since the trees had become ripe for harvest, in December, 2017, respondents 6 and 7 sought to auction the same and initially on 24.12.2017 fixed the upset price at Rs.59 lakhs. However, the auction did not take place.

6. Thereafter, the auction price was reduced to Rs.29,03,399/- and an auction Notification was issued on 27.03.2018.

7. As per the terms of the said auction, the highest bidder has to deposit Rs.3,00,000/- as EMD on the same day of auction along with 50% of the bid amount and the balance 50% should be paid to the 6th respondent-Grampanchayat in the next 15 days. If such payment is not made and agreement is not registered, then the tender condition No.1 stipulates that the auction itself would be cancelled, and fresh auction would be held.

8. Petitioners contend that though the 8th respondent became highest bidder in the auction held on 27.03.2018, but he did not pay the 50% balance amount within the time stipulated i.e., by 12.04.2018 and in spite of the same, time was extended by respondents 6 and 7 beyond what is permissible in the auction conditions and he was allowed to make the payment thereafter.

9. It is the admitted case of both sides that the total amount fixed under the terms of tender was paid on 26.04.2018 and not by 12.04.2018, the day when 15 days period from date of auction

ends. So as per the tender/auction conditions, the auction has to be cancelled.

10. It is the case of the respondents that there is a Resolution of the Grampanchayat on 10.04.2018 permitting extension of time for making the balance payment, and pursuant to the said Resolution, time was extended up to 10.05.2018 to enable the 8th respondent to make the payment.

11. On 06.06.2018 in I.A.No.1 of 2018 this Court restrained the 8th respondent from cutting and carrying away the plants raised by respondents 1 and 3 in the subject land on the ground that the auction itself ought to have been cancelled.

12. Since the payment was not made as per terms and conditions of the auction by 12.04.2018, the respondents 6 and 7 could not have extended time to 8th respondent beyond what is fixed in the tender conditions.

13. Counsel for respondents do not dispute that the terms of the tender/auction are binding on the respondents and the respondents therefore cannot act in contravention of the tender/auction conditions and relax the conditions to favour the 8th respondent at a later point of time.

14. Therefore, the respondents 6 and 7 had no jurisdiction to extend the time for making the payment beyond 12.04.2018 to

favour the 8th respondent to enable him to make full payment of the amount offered by him.

15. Accordingly, the Writ Petition is allowed; the action of the respondents 6 and 7 in accepting the bid amount of the 8th respondent is set aside; respondents 6 and 7 are directed to refund the amount paid by 8th respondent to 8th respondent within a period of three (03) weeks; and proceed to conduct a fresh auction for cutting and carrying away the plantation in the subject land. The vacation petition I.A.No.2 of 2018 is accordingly dismissed. No order as to costs.

16. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

23rd August, 2018.
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M.S. RAMACHANDRA RAO, J

