

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.7837 of 2009

Order:

This Writ Petition is filed seeking a direction to the respondents to hand over the land of the petitioner admeasuring Ac.2-50 cents, situated in RS No.96/2B of Barripadu village, Bantumilli Mandal, Krishna District, by accepting the amount of Rs.72,882/- payable by the petitioner to the second respondent Temple towards lease of agricultural land belonging to the second respondent Temple for faslis 1405 to 1407 (1995-96, 1996-97 and 1997-98).

The case of the petitioner is that the second respondent Temple is the owner of the land admeasuring Ac.10.16 cents in RS No.47 of Barripadu village, Bantumilli Mandal, Krishna district and the said land was leased out to the petitioner for a period of three years; as the petitioner committed default in payment of rentals, the second respondent filed ATC No.9 of 1997 on the file of the Tenancy Tribunal, Bantumilli; the said ATC was allowed by order dated 16.12.1998 and the second respondent Temple by filing EP No.11 of 1999 in ATC No.9 of 1997 evicted the petitioner through Court on 06.05.1999; for recovery of arrears of rent of Rs.72,882/- with subsequent interest, the second respondent filed OS No.142 of 2001 on the file of the Junior Civil Judge Court, Machilipatnam; the said suit was decreed in favour of the second respondent Temple on 25.11.2002; the second respondent Temple filed EP No.89 of 2003 for recovery of the decretal amount by selling the land of the petitioner admeasuring Ac.2.50 cents situated in RS No.96/2B of Barripadu village, Bantumilli Mandal, Krishna district; the petitioner sought time to pay the EP amount; on 19.07.2006 the lands of the petitioner were put in

possession of the second respondent by issuing delivery order in EA No.251 of 2006; now in this Writ Petition the petitioner seeks redelivery of the said land by accepting the amount including subsequent interest from the date of auction.

Counter affidavit has been filed by the second respondent Temple stating, *inter alia*, that the property of the petitioner was delivered to the second respondent Temple on 20.07.2006 in EA No.251 of 2006 and since then they are in possession and enjoyment of the same.

Having regard to the fact that the property of the petitioner was already delivered to the second respondent Temple through Court on 20.07.2006 in EA No.251 of 2006 and the present Writ Petition is filed in April 2009, the relief as sought for by the petitioner in this Writ Petition cannot be granted. The remedy of the petitioner is elsewhere and the present Writ Petition is not maintainable.

Accordingly, the Writ Petition is dismissed. However, the petitioner is at liberty to avail the alternative remedies available to him under 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.

KONGARA VIJAYA LAKSHMI, J.

Date: 29.11.2018
Nsr

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