

THE HONOURABLE SRI JUSTICE M. GANGA RAO

W.P.No.10917 of 2006

ORDER

This writ petition is filed to issue a writ of mandamus declaring the action of respondents 1 to 3 in trying to evict the petitioner from the land to an extent of Ac.2.48 cents in Sy.No.159/1 situated at Geddalanka Village, Mummidivaram Mandal, East Godavari District, as illegal, arbitrary and violative of principles of natural justice and consequently to direct the respondents not to evict the petitioner from the said land without following due process of law.

2. The case of the petitioner is that he is a protected tenant of land to an extent of Ac.2.48 cents in Sy.No.159/1 situated at Geddalanka Village, Mummidivaram Mandal, East Godavari District, belonging to the 4th respondent-Srikakulapu Krishnamurthy Chowltry, Mukteswaram, Inavilli Mandal, East Godavari District, for the last 50 years. Earlier, the said land was allotted to his father, by name, Sri Bonthu Manikyam, by way of lease. Now, the petitioner is cultivating the said land by virtue of lease and is regularly paying the lease amount of Rs.10,500/- per annum to the 4th respondent without any default and his lease is being extended from time to time. The further case of the petitioner is that except the said land, he has no other lands to eke out his livelihood and he is a landless poor person and entitled to the benefits of Section 82 of Endowments Act (for short 'the Act'). It appears that the Government announced Indira Prabha Housing Scheme for

providing house sites to the landless poor persons and that on the report of the 3rd respondent, the 2nd respondent came to the petitioner's land, measured the same and informed to take up the land for providing house sites. Therefore, the respondents are trying to dispossess the petitioner from the land without following due process of law and without consent of the 4th respondent temple. Challenging the same, the present writ petition is filed.

3. This Court, on 01.06.2006, while issuing rule nisi, passed interim order in W.P.M.P.No.13604 of 2006 directing the respondents not to dispossess the petitioner from the land in question and further directed them to continue the petitioner in the said land subject to payment of arrears of rent.

4. The respondents have not filed counter disputing the same.

5. In view of the above, this Court is forced to accept the contention of the petitioner. In the facts and circumstances of the case, this Court is of the considered view that the lease of petitioner in respect of the land to an extent of Ac.2.48 cents in Sy.No.159/1, situated at Geddalanka Village, Mummidivaram Mandal, East Godavari District, belonging to the 4th respondent temple, is subsisting and therefore, he is entitled to the benefits under Section 82 of the Act. Since the subject land belongs to the Endowment Department, respondents 1 to 3 shall not take the land of petitioner without resorting to the provisions of Land Acquisition Act and not to dispossess the petitioner highhandedly. Accordingly, the

respondents are directed not to dispossess the petitioner from the land in question without following due process of law.

6. With the above direction, the Writ Petition is disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE M. GANGA RAO, J

29th March, 2018

sj

