

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.14300 OF 2010

Date: 07.02.2018

Between:

Bobba Abaddham, S/o. Subbanna, Aged about 60 years,
r/o. Achanta Vemavaram Village and Mandal, West Godavari
district and another.

.....Petitioners

and

The Deputy Commissioner, Endowments Department,
Kakinada, East Godavari District and others.

.....Respondents



The Court made the following:

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ORDER:

Petitioners claim to be cultivating agricultural lands to an extent of Ac.2.59 cents and Ac.2.39 cents, respectively, in R.S.Nos.371, 643 and 648 of Achanta Vemavaram Village and Mandal, West Godavari District, belonging to Sri Someswara Swamy Vari Devasthanam, consequent to the lease granted to them. Contending that extent of land physically available is only Ac.1.88 cents and Ac.1.80 cents, respectively, they requested to reduce Maktha. This writ petition is filed aggrieved by non-consideration of request of petitioners for collecting appropriate Maktha as per the reduced extent of land and to direct to collect appropriate Maktha. Though lease period granted to petitioners expired long ago, as per interim stay granted by this court on 23-06-2010, petitioners continue to cultivate subject land.

2. The averments made in the counter-affidavit of respondent-temple would show that earlier lease of these two extents of land was granted to some other persons. On the request made by those leaseholders, leasehold rights were transferred to first petitioner on enhancement of Maktha. On expiry of lease of first property, lease was further extended for the period from 2005 to 2008 with enhanced Maktha. First petitioner opted out of balance extent of land. In the auction conducted on 03.06.2008, second petitioner stood as highest bidder and accordingly, lease was granted to second petitioner. Though lease period expired long ago, in view of interim orders, both petitioners continue to occupy the respective extents of land.

3. It is not in dispute that subject lands belong to third respondent-temple and petitioners are only cultivating the subject lands as lessees. It is mandatory for the concerned temple to hold public auction and grant lease to the highest bidder for specified period. After expiry of period, fresh auction must be conducted. Learned counsel for petitioners do not dispute that lease period expired and auction is required to be conducted.

4. Immediate provocation for petitioners to rush to the Court was proposed auction scheduled in May, 2010, but petitioners projected as if higher amount of Maktha was demanded from them, though they are not in occupation and cultivation of extent of land mentioned in the auction proceedings and higher Maktha cannot be charged. In other words, in the guise of alleging charging of higher Maktha, petitioners have effectively prevented the respondent-temple from conducting auction of temple lands after completion of lease period.

5. At this stage, learned standing counsel informs the Court that authorities of respondent-temple have instituted O.S.No.10 of 2014 and O.S.No.10 of 2017 against 1st petitioner; O.S.No.176 of 2014 and O.S.No.11 of 2017 against 2nd petitioner for recovery of Maktha due from them. Since suits are instituted by the respondent-temple and suits are pending, Court is not expressing any opinion on payment of appropriate Maktha and it is for the parties to work out their grievances in pending suits. Suffice to note that lease period expired long ago and for more than seven years auction was not conducted. Thus, fourth respondent is directed to conduct auction for grant of lease of the subject lands

within fixed time frame and entire process should be completed within two months from the date of receipt of copy of this order. However, since petitioners have been in possession for the last more than seven years, they may be allowed to continue till the auction process is completed. If the petitioners are not the highest bidders in the auction process, they shall vacate the subject lands within 15 days from the date of completion of auction process of subject lands. Failing to vacate the subject land, it is open to the respondent-temple to take appropriate proceedings as warranted by law. Any continuation beyond 15 days time after completion of auction process, respondent – temple is also entitled to recover from the petitioners the highest bid amount quoted by the successful tenderer in the auction process.

6. Writ Petition is disposed of accordingly. No costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

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