

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT**

WRIT APPEAL No.1184 OF 2018

JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Writ petitioner is the appellant. The appeal is directed against the order dated 20.08.2018 in W.P.No.8582 of 2016.

The appellant prayed for Mandamus declaring the auction notice dated 29.02.2016 issued by the Guntur Annadana Samajam/ 4th respondent proposing to auction shop Nos.11, 11A and 11B without evicting the petitioner/appellant as illegal and unconstitutional.

The circumstances leading to the filing of the writ petition and the stand of respondent Nos.1 to 4 and respondent No.5 are stated in great detail by the learned Single Judge in the order under appeal. The learned counsel appearing for the parties do not point out an error on the circumstances stated in the order under appeal. Therefore, for brevity, we prefer not to reiterate all the circumstances in our order.

Mr.Raja Reddy Koneti contends that the appellant was granted lease of vacant plot. The father of appellant constructed the shop rooms therein and paying rent. Therefore, the respondents cannot auction the shops. It is noted that the appellant herein is the son of Karasani Sambasiva Rao and claims to be continuing in possession pursuant to the lease granted in favour of his father/1st appellant.

The creation of interest in favour of appellant admittedly is for three years. The appellant enjoyed the property for more than ten years and the appellant wants continuation of possession at moderate enhancement of rent. The appellant to challenge the auction notice ought to establish existing right in appellant either by way of lease deed or that the proposed auction covers the very same period for which lease is granted to appellant. Admittedly, the lease expired long ago. In addition to above circumstances, the order under appeal records that the subject premises is capable of fetching Rs.35,000/- per month and on the contrary, the second appellant pays Rs.6,300/- per month. For either of the reasons viz., there is no right in appellant either for protection or enforcement and also that the auction of subject premises facilitates Annadana Sathram getting market rent, we are convinced that the order under appeal is without merits.

The writ appeal fails and is, accordingly, dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

10th September, 2018
Lrkm