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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.2.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.223 of 2022 &
CMP.No.1631 of 2022

G.Anjappa

... Appellant/Petitioner

vs

1.The Joint Commissioner, Hindu
Religious and Charitable
Endowments Department
Tiruvannamalai.

2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department
Krishnagiri.

3.The Executive Officer, Arulmighu
Sanmashiwar Swamy Temple,
Bethakolalu Village, Hosur
Taluk, Krishnagiri District.

... Respondents/Respondents

Prayer: APPEAL under Clause 15 of the Letters Patent against the order dated 14.12.2021 in WP.No.26596 of 2021 and WMP.No.28053 of 2021.

Prayer in W.P.No.26596 of 2021:

Writ Petition filed under Article 226 of the Constitution of India praying that to issue a Writ of Certiorarified Mandamus Calling for the records relating to the tender notice Nil for the auction dated 14.12.2021 issued by the 3rd respondent and



quash the same in so far as it relates to the land in survey No.36 Extent of 6.78 Acres of Bethakolalu Village Hosur Taluk Krishnagiri District and further direct the 3rd respondent to permit the petitioner to hold the land as tenant and cultivate the lands in Survey No.36 to the extent of 6.78 Acres of Bethakolalu Village Hosur Taluk Krishnagiri District based on Representation dated 7.12.2021.

Prayer in WMP No.28053 of 2021:

To stay the auction notice dated Nil for the auction dated 14.12.2021 in respect of Survey NO.36 Extent of 6.78 Acres in Bethakolalu Village, Hosur Taluk, Krishnagiri District issued by the 3rd respondent pending disposal of the above W.P.No.26596 of 2021.

For Appellant : Mr.C.Umashankar

For Respondents : Mr.T.Chandrasekaran,
Special Government Pleader
for R1 & R2

JUDGMENT

(Judgment was delivered by
the Hon'ble Acting Chief Justice)

Mr.T.Chandrasekaran, learned Special Government Pleader accepts notice for respondents 1 and 2.

2. We have heard the learned counsel appearing for the parties.

3. By this writ appeal, a challenge is made to the order dated 14.12.2021 passed by the learned Single Judge in W.P.No.26596 of 2021 and WMP.No.28053 of 2021 wherein the miscellaneous petition was dismissed. As on date, the writ petition is pending.

4. The facts, as projected by the appellant, would show that a lease agreement was executed in his favour for cultivation of the temple land and pursuant to that, the appellant was cultivating the land from the year 2007. Thereafter, the said land was put in auction for grant of lease due to the default committed by the appellant in making payment



of the lease amount. According to the appellant, the auction was scheduled to be conducted on 14.12.2021. However, in the absence of bidders or appropriate bid, it could not be carried out. It is stated that the appellant paid a sum of Rs.30,000/- by way of a demand draft and cash to the tune of Rs.10,000/- in the year 2021. Therefore, it is contended that the learned Single Judge ought to have considered the case of the appellant to continue the lease or at least allowed him to take the standing crops. The learned counsel for the appellant has sought to set aside the order passed by the learned Single Judge.

5. Per contra, Mr.T.Chandrasekaran, learned Special Government Pleader appearing for respondents 1 and 2 has contested the appeal not only on the ground that it is not maintainable, but even on facts. According to him, the statement of fact that on 14.12.2021, bidding remained unsuccessful is far from truth and in fact, after participation in the auction, one Mr.Muniappa became the successful bidder and pursuant to that, the lease agreement was executed in his favour on payment of the required amount. Further, the possession of the agricultural land was thereupon handed over to him. In view of the above, the challenge to the impugned order has been made by suppressing the facts, as the appellant is otherwise a defaulter. He would further submit that prayer to set aside the order impugned may not be accepted.

6. We have carefully considered the rival submissions and perused the records.

7. The relevant portions contained in the impugned order read thus :

"10. In view of the prima facie case as projected by the learned Special Government Pleader, this Court has no hesitation to hold that there can be no further impediment as of now to proceed with the impugned public auction and therefore, no interference is called for by way of any interim order at this stage against the impugned public auction notice. Therefore, the prayer sought for in W.M.P.No.28053 of 2021 for grant of interim order of stay is dismissed.

11. Post the main writ petition after four weeks. The respondents shall file a detailed counter by then. It is made clear that, if any third party right is created



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pursuant to the impugned public auction notice, the third respondent temple shall allow the petitioner to take the usufructs of the present agricultural standing crop ie., paddy, out of which 50% of the usufructs shall be paid by the petitioner to the temple."

8. The appellant challenged the impugned order mainly with reference to the auction, which was allegedly not conducted on 14.12.2021 and therefore, he may be permitted to cultivate the lands and to take crops in pursuance of the payment made by him both by way of demand draft and cash. However, the learned Special Government Pleader appearing for respondents 1 and 2 has clarified that not only the auction was conducted on 14.12.2021, but on remaining successful, lease agreement was executed in favour of the highest bidder and the possession of the agricultural land has already been given. The petitioner - appellant otherwise remains a defaulter in making payment of the lease amount.

9. In view of the above, we do not find any reason to cause interference with the order passed by the learned Single Judge pending writ petition, as, otherwise, the learned Single Judge, while passing the impugned order, made it clear that the third respondent temple should allow the appellant to take the usufructs of the present agricultural standing crops i.e paddy, out of which, 50% of the usufructs should be paid by the petitioner - appellant to the third respondent temple.

10. Accordingly, the above writ appeal is dismissed. Consequently, the connected CMP is also dismissed. There will be no order as to costs.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

To:

1. The Joint Commissioner, Hindu
Religious and Charitable
Endowments Department
Tiruvannamalai.



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2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department
Krishnagiri.

3.The Executive Officer, Arulmighu
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Bethakolalu Village, Hosur
Taluk, Krishnagiri District.

Copy to

The Assistant Registrar,
Writ Section, High Court,
Madras.

+1cc to the Government Pleader Sr.9286

W.A.No.223 of 2022 &
CMP.No.1631 of 2022

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