

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(Special Original Jurisdiction)

SATURDAY, THE TWENTY EIGHTH DAY OF MAY
TWO THOUSAND AND TWENTY TWO

:PRESENT:

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA
WRIT PETITION NO: 20622 OF 2022



Between:

(SR)

1. Kunche Sathiraju, S/o Late Raju, aged about 86 years, Occ: Agriculture, R/o:D.No.6-3-11, Main Road, Kunchevari Street, Samalkot, East Godavari District.
2. Kunche. Srinivasarao, S/o Sathiraju, Aged about 50 years, Occ: Agriculture, R/o: D.No.6-3-11, Main Road, Kunchevari Street, Samalkot, East Godavari District.

... Petitioners

AND

1. The State of Andhra Pradesh, Department of Endowments, Rep., by its Principal Secretary, Secretariat, Velagapudi, Amaravati, Guntur District.;
2. The Commissioner, Department of Endowments, Gollapudi, Vijayawada
3. The Assistant Commissioner, Department of Endowments, Rajahmundry, East Godavari District.
4. Sri Chandrasekhara Swamy vari Devasthanam, Rep. by its Executive Officer, Samalkot Village and Mandal, Kakinada District.

... Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, or order or direction, more particularly, one in the nature of Writ of Mandamus declaring the action of the respondents more particularly 4th respondent in issuing auction notice dated 14-05-2022, published and circulated on 28.05.2022 proposing to auction leasehold rights of the lands admeasuring Ac 3.40 cents in Sy. No. 364, Devasthanm land of samlkot village and Mandal, Kakinada District with the possession the petitioners without any notice or evicting the petitioners as per Law as illegal, motivated, deliberate, intentional, against Law as well as principles of natural justice and consequentially set aside the auction notice dated 14-05-2022 and direct the respondents to continue the petitioners as per Law.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 4th respondent not to evict the petitioners from the land admeasuring an extent of Ac.3.40 cents situated in Sy.No. 364 in Samalkot Village and Mandal Kakinada District including stay of proposed auction on 31.05.2022, Pending disposal of present writ petition

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Sreenivas Challa Advocate for the Petitioners and GP for Endowments for Respondent Nos1 to 4 and the Court made the following.

ORDER:

“Heard learned counsel for the petitioners and learned Assistant Government Pleader for respondents 1 to 3 and he is also representing the Standing Counsel for 4th respondent.

The present writ petition is filed by the petitioners seeking to declare the public auction notice 14.05.2022 published and circulated on 28.05.2022 in proposing to conduct public auction on 31.05.2022 in respect of the agricultural lands admeasuring Ac.3.40 cents in Sy.Nos.364 of Samarlakota Village and Mandal, Kakinada District, in contrary to the orders passed in Appeal No.270/2007 dated 27.06.2008, which is illegal, arbitrary.

It is the case of the petitioners that the petitioners herein are tenants of subject agricultural lands and the landless poor persons. They have been continuing as tenants in respect of the subject lands since decades together. While so, pursuant to the applications made by the petitioners seeking to declare them as landless poor persons, the 3rd respondent herein after conducting elaborate enquiry held that the petitioners are not come under the ambit of landless poor persons. The said proceedings were assailed by the petitioners by way of appeal under Section 98 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act before the Regional Joint Commissioner under the Act vide appeal No.270 of 2007. After hearing all the parties concerned, the appellate authority set aside the proceedings of the 3rd respondent and declared the petitioners herein as landless poor persons vide its order dated 27.06.2008.

After such declaration that the petitioners are the landless poor persons, they are entitled to continue as tenants under landless poor persons category without any hindrance from the authorities in respect of their leasehold lands.

That being so, the 4th respondent herein issued the present impugned notice dated 14.05.2022 proposing to conduct public auction in respect of the lands admeasuring Ac.3.40 cents in Sy.No.364, Samarlakot Village and Mandal, Kakinada District, on 31.05.2022 for granting leasehold rights for a period of three years, i.e. from 2022-23 to 2024-25, which is against the law as well as law laid down by the Hon'ble High Court in W.P.No.19149 of 2020 dated 06.07.2021.

In view of the submissions made by the petitioners as well as the respondents, I am of the considered view that the present impugned public auction notice is contrary to the provisions of the Act, more particularly, Rule 3(3) of A.P. Charitable and Hindu Religious Institution and Endowments Immovable Properties other Right (other than the Agricultural Lands) Leases and Licences Rules 2003 and also to the orders passed by the appellate authority dated

27.06.2008. *Prima facie*, the petitioners are entitled to be continued as tenants in respect of their leasehold lands. Accordingly, there shall be interim stay of auction notice dated 14.05.2022 proposing to conduct public auction on 31.05.2022 in respect of the agricultural lands admeasuring Ac.3.40 cents in Sy.Nos.364 of Samarlakota Village and Mandal, Kakinada District

The learned Standing Counsel is specifically instructed to inform the orders of this Court to the respondents herein forthwith. Accordingly, IA No. 1 of 2022 is allowed.

List the matter on 22.06.2022.”

//TRUE COPY//

ASSISTANT REGISTRAR
Chambers
For ASSISTANT REGISTRAR

To,

1. The Principal Secretary, Department of Endowments, Secretariat, Velagapudi, State of Andhra Pradesh, Amaravati, Guntur District.;
2. The Commissioner, Department of Endowments, Gollapudi, Vijayawada
3. The Assistant Commissioner, Department of Endowments, Rajahmundry, East Godavari District.
4. The Executive Officer, Sri Chandrasekhara Swamy vari Devasthanam, Samalkot Village and Mandal, Kakinada District.(1to 4 by RPAD)
5. One CC to SRI. Sreenivas Challa, Advocate [OPUC]
6. Two CC's to GP for Endowments, High Court of AP, Amaravati[OUT]
7. One CC to SRI.Madhav Rao, SC for Endowments Advocate [OPUC]
8. **One spare copy**

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HIGH COURT

NV,J

DATED:28/05/2022

LIST THE MATTER ON 22.06.2022.

ORDER

WP (SR) .No.20622 of 2022

DIRECTION

