
(2006) 09 AP CK 0026

In the Andhra Pradesh High Court

Case No : Writ Petition No. 19184 of 2006

Vaka Venkata Krishna Reddy and Others

APPELLANT

Vs

Sri Ramalingeswara Swamy Devasthanam and Others

RESPONDENT

Date of Decision : 15-09-2006

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 82, 83
Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments
Immovable Properties and Other Lands (Other than Agricultural Lands) Leases and
Licenses Rules, 2003 — Rule 7

Citation : (2007) 1 ALD 262 : (2006) 3 APLJ 408

Hon'ble Judges : Goda Raghuram, J

Bench : Single Bench

Advocate : P. Venkata Rao, for the Appellant; G.P. for Endowments, for the Respondent

Final Decision : Dismissed

Judgement

Goda Raghuram, J.—The petitioners assail the conduct of an auction for grant of leasehold rights of lands in various extents in Sy.Nos. 59, 43, 478 of Rudrakota village, Kavali Mandal, Nellore District. an agricultural property belonging to the 1st respondent-Sri Ramalingeswara Swamy Devasthanam, Rudrakota village, Kavali Mandal, Nellore District.

2. The petitioners claim to have been in possession of these lands, to be cultivating it by raising crops and paying annual Maktha regularly to the Devasthanam, for the past 30 years. The petitioners do not plead, establish or demonstrate that they are the lawful cultivating tenants of the 1st respondent-Devasthanam's lands, consequent on duly executed lease deeds. No particulars are furnished in the writ petition to justify an assumption that the petitioners are lawful tenants.

3. Rule 7 of the A.P. Charitable and Hindu Religious Institutions and Endowments

Lease of Agricultural Lands Rules, 2003 (for short "the Rules") and provisions of similar rules earlier to these; whether made under the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1966 or under the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the New Act"), as well as the general principles of Administrative Law and authoritative precedents, obligate Endowment properties to be alienated including by way of lease only by a transparent public process in a manner which would ensure the fetching of a competitive return on Endowment properties and not by clandestine and sub-rosa private understandings between Endowment officers or managers of temples and private individuals. The unauthorized occupation of the Endowment lands by the petitioners without a lease deed executed in their favour by or on behalf of the Endowment after following the due process of law; substantive and procedural, would not elevate the occupation of the petitioners to the status of cultivating tenants as understood by the provisions of the New Act. The expression "cultivating tenant" in Section 82 of the New Act, must mean a cultivating tenant under a lawful, duly executed lease and not a person who is the beneficiary of a negligent or careless exercise of ultra vires conduct of endowment officials acting in defiance of the provisions of the Act and the Statutory rules - see in this connection Bhudan Singh and Another Vs. Nabi Bux and Another, . There is no exclusion in this principle by the mere fact that the petitioners are in such an unauthorized occupation since long or from times immemorial. The petitioners do not claim any prescriptive title or ownership to the lands in question.

4. In the circumstances above, as the petitioners are not cultivating tenants within the meaning of the said expression qua Section 82 of the New Act or the Rules, the petitioners cannot be considered to be landless poor persons for the benefits u/s 82 of the Act. As they are encroachers, as is apparent, they cannot resist the impugned notification issued by the 1st respondent- Devasthanam, proposing conduct of a public auction for grant of leasehold rights of its lands. The petitioners have no locus standi to claim any such relief. On the analysis above, there are no merits. The writ petition is dismissed.

5. The respondents are at liberty to take appropriate proceedings for the petitioners' eviction in accordance with law, including u/s 83 of the Act. There shall be no order as to costs.