

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD  
(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF MAY  
TWO THOUSAND AND EIGHT

PRESENT  
**THE HON'BLE SRI JUSTICE C.V.RAMULU**

**WRIT PETITION No.11522 of 2008**

Between:

Komali Gopala Rao S/o. China Narasanna, Hindu,  
R/o. Purushothapalli (V) Nidadavole (M),  
West Godavari District.

**..... PETITIONER**

AND

- 1 The Regional Joint Commissioner, Multi Zone-I,  
Endowments Department, Kakinada.
- 2 The Assistant Commissioner of Endowments,  
West Godavari District at Eluru.
- 3 Sri Vijayalingeswara Swamy Vari Devasthanam  
rep. by its Manager, Vijjeswaram (V)  
Nidadavole (M), West Godavari District.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any appropriate writ, order or direction, declaring the action of the 1<sup>st</sup> respondent in dismissing the order dt. 31-12-2007 in Appeal No. 140/2007 confirming the order of the 2<sup>nd</sup> respondent in Rc.No. A4/4715/2005 dt. 6-7-2007 by not considering the representation filed by the petitioner for continuing him as tenant of dry land belonging to the 3<sup>rd</sup> respondent measuring Ac.4.04 cents in R.S. No. 276 situated at Vijjeswaram (V), Nidadavole(M), West Godavari District, as illegal, violative of principles of natural justice and for a consequential order directing the respondents to drop all further proceedings with respect to notice for conduct of public auction of the schedule land on 6-6-2008 and to pass such other order or orders.

**Counsel for the Petitioner:**

**MR.CH.DHANAMJAYA**

**Counsel for the Respondents 1 and 2: GP FOR ENDOWMENTS**

**Counsel for the Respondent No.3: MR. V.T.M. PRASAD**

**The Court made the following :**

**THE HON'BLE SRI JUSTICE C.V.RAMULU**

**WRIT PETITION No.11522 of 2008**

**ORDER:**

The petitioner is a tenant in respect of Acres 4-04 cents of land in R.S.No.276, owned by Sri Vijayalingeswara Swamy Vari Devasthanam, Vijjeswaram Village, Nidadavole Mandal, West Godavari District. When steps were being taken to terminate the lease and evict the petitioner, he had approached the Assistant Commissioner of Endowments, West Godavari, the 2<sup>nd</sup> respondent herein, with a prayer to declare him as landless poor. Vide proceedings, dated 06.07.2006, the 2<sup>nd</sup> respondent rejected the plea of the petitioner and held that he does not answer the description of landless poor. Appeal No.140 of 2007 preferred by the petitioner before the 1<sup>st</sup> respondent was also rejected on 31.12.2007. Hence, this Writ Petition.

Sri Ch.Dhanamjaya, learned counsel for the petitioner, submits that respondents 1 and 2 have applied improper parameters, while deciding the claim of the petitioner. He contends that the petitioner does not hold any land in excess of the limit stipulated under the Rules framed under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), and still he was not extended the benefit of landless poor.

Learned Standing Counsel for the Devasthanam, on the other hand, submits that concurrent findings of fact were recorded by respondents 1 and 2 and no interference is warranted.

The question as to whether the provisions of the A.P. (Andhra Area) Tenancy Act, 1956, would apply to the leases in respect of lands held by religious institutions, remained unanswered for several years. In the recent past, the Hon'ble Supreme Court resolved the controversy and held that such lands are not covered by the provisions of the ordinary tenancy laws. Therefore, the tenancy, in respect of lands held by religious institutions, is governed by the provisions of the Act and the Rules made thereunder.

With a view to protect the interests of landless poor, Rules were framed conferring certain benefits upon them. However, the question as to whether a tenant comes within the description of landless poor is to be decided by the Assistant Commissioner of Endowments and an appeal against the said finding is provided to the appellate authority.

In the instant case, the petitioner, being a tenant of Acres 4-04 cents of land, had approached the 2<sup>nd</sup> respondent with a prayer to declare him as landless poor. On an examination of the relevant facts, the 2<sup>nd</sup> respondent recorded a finding to the effect that the petitioner is not a landless poor. The said finding was affirmed by the 1<sup>st</sup> respondent.

No error of law or fact is pointed out. This Court is not inclined to interfere with the concurrent findings of fact.

Learned counsel for the petitioner submits that his client may be continued as tenant on payment of revised rents. In this regard, it needs to be observed that the Act and the Rules prescribe the procedure for grant of leasehold rights in respect of agricultural lands held by the institutions. Public auction is the recognized mode of determining the highest bid. In case, the 3<sup>rd</sup> respondent intends to grant leasehold

rights, in respect of Acres 4-04 cents of land, hitherto held by the petitioner, it shall conduct public auction and it shall be open to the petitioner to participate in the same. Even if he does not emerge as highest bidder, but agrees to pay the rent that is offered by the highest bidder, the respondents shall grant fresh lease to the petitioner, in accordance with the relevant provisions of law.

The writ petition is accordingly disposed of, upholding the orders passed by respondents 1 and 2, but with the observation made above.

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**JUSTICE C.V. RAMULU**

29<sup>th</sup> May, 2008.  
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To

- 1 The Regional Joint Commissioner, Multi Zone-I,  
Endowments Department, Kakinada.
- 2 The Assistant Commissioner of Endowments,  
West Godavari District at Eluru.
- 3 The Manager, Sri Vijayalingeswara Swamy Vari Devasthanam,  
Vijjeswaram (V), Nidadavole (M), West Godavari District.
- 4 Two CD Copies