



***IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

W.P.No.19149 of 2020

Between:

- # 1. Yelika Srinivasulu, S/o.Y.Brahmaiah,
Aged about 58 years, Agriculture,
R/o.Indupuru, Allur Mandal, Nellore,
SPSR Nellore District.
2. Thirumuru Peda Ramanaih, S/o.T.Gunaiah,
Aged about 74 years, Agriculture,
R/o.Purini Village, Allur Mandal, Nellore,
SPSR Nellore District.
3. Gandavarapu Subbarayudu,
S/o.late G.Venkaiah,
Aged about 64 years, Agriculture,
R/o.Palipalem, Indupur, Allur Mandal,
Nellore, SPSR Nellore District.
4. Natarani Pandu Rangaiah, S/o.N.Chinnaiah,
Aged about 70 years, Agriculture,
R/o.Ramalayam Street, Indupur,
Allur Mandal, Nellore, SPSR Nellore District.
5. Shaik Khadar Hussien, S/o.Shaik Basha,
Aged about 46 years, Agriculture,
R/o.Palipalem, Indupur, Allur Mandal,
Nellore, SPSR Nellore District.
6. Shaik Gousu Basha, S/o.late Gudu Saheb,
Aged about 63 years, Agriculture,
R/o.Palipalem, Indupur, Allur Mandal,
Nellore, SPSR Nellore District.
7. Shaik Ramthulla, S/o.Shaik Khalesha,
Aged about 61 years, Agriculture,
R/o.Palipalem, Indupur, Allur Mandal,
Nellore, SPSR Nellore District.
8. Shaik Badulla, S/o.Shaik Rahunth Saheb,
Aged about 63 years, Agriculture,
R/o.Palipalem, Indupur, Allur Mandal,
Nellore, SPSR Nellore District.
9. Shaik Khadar Hussain,
S/o.Shaik Nanni Saheb,
Aged about 73 years, Agriculture,
R/o.Palipalem, Indupur, Allur Mandal,
Nellore, SPSR Nellore District.



10. Shaik Khalesha, S/o.Shaik Barre Saheb,
Aged about 60 years, Agriculture,
R/o.Palipalem, Indupur, Allur Mandal,
Nellore, SPSR Nellore District.
11. Shaik Munthaj Begum, W/o.Khajameeya,
Aged about 68 years, Agriculture,
R/o.Palipalem, Indupur, Allur Mandal,
Nellore, SPSR Nellore District.
12. Shaik Mahaboob Basha,
S/o.Shaik Basha Saheb,
Aged about 73 years, Agriculture,
R/o.Palipalem, Indupur, Allur Mandal,
Nellore, SPSR Nellore District.

... **PETITONERS**

AND

- \$ 1. The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Endowments Department,
Secretariat Buildings, Velagapudi,
Amaravathi, Guntur District.
2. The Assistant Commissioner,
Endowment Department,
SPSR Nellore District.
3. Sri Rebala Kodanda Rami Reddy Charities,
Rep. by its Executive Officer,
North Mopur Village, Allur Mandal,
SPSR Nellore District.

... **RESPONDENTS**

Date of Judgment pronounced on : 06.07.2021

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments ? : Yes/No
2. Whether the copies of judgment may be
marked to Law Reporters/Journals: : Yes/No
3. Whether the Lordship wishes to see the
fair copy of the Judgment ? : Yes/No



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3. Sri Rebala Kodanda Rami Reddy Charities,
Rep. by its Executive Officer,
North Mopur Village, Allur Mandal,
SPSR Nellore District.

... RESPONDENTS

! Counsel for petitioners : Mr. Somisetty Ganesh Babu

^Counsel for Respondents 1 & 2 : Government Pleader for
Endowments

^Counsel for Respondent No.3 : Standing Counsel for Endowments

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? Cases referred:

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO****WRIT PETITION No.19149 of 2020****ORDER:**

The petitioners herein are the tenants of the 3rd respondent-Charitable Institution, who are all holding lands below Ac.2.50 cents of wet land or Ac.5.00 cents of dry land and had been recognized as landless poor persons, under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short 'the Act'), by way of proceedings of the 2nd respondent bearing D.Dis.No.A3/1541/2004, dated 12.05.2004. The petitioners were being given all the benefits of the status of the landless poor persons and had continued as lessees of the 3rd respondent till now.

2. The 3rd respondent on 12.10.2020 issued an auction notice proposing to hold an auction on 22.10.2020, in respect of the lease hold rights of the lands which were being cultivated by the petitioners as lessees of the 3rd respondent. Thereupon, the petitioners had approached the 3rd respondent and placed the proceedings of the 2nd respondent, dated 12.05.2004 before the 3rd respondent in support of their claim, that they are the landless poor persons and would be entitled to continue as lessees of the 3rd respondent. However, the 3rd respondent sought to continue the auction. Aggrieved by the same, the petitioners approached this Court by way of this writ petition.



3. This Court on 20.10.2020 had granted interim stay of all further proceedings in the auction for a period of six (6) weeks and the said order has been extended from time to time.

4. Heard Sri Somisetty Ganesh Babu, learned counsel for the petitioners and Sri G.Ramana Rao, learned Standing Counsel for the Endowments.

5. It is the case of Sri Somisetty Ganesh Babu, learned counsel for the petitioners that once the petitioners have been recognized as landless poor persons, the said status would continue until an order is passed by the competent authority setting aside the said status. He submits that in the absence of any such order, the status of the petitioners as landless poor persons cannot be disturbed and they would be entitled to all the benefits available to such landless poor persons, including the right to continue as lessees of the 3rd respondent, subject to the conditions in the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short 'the Act') and the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short, 'the Rules of 2003').

6. Sri G.Ramana Rao, learned Standing Counsel for the 3rd respondent would submit that it is true that the orders of the 2nd respondent, dated 12.05.2004 declaring the status of the petitioners as landless poor persons has not been set aside. However, he submits that in view of the proviso to Sub-Rule (3)



of the Rule 3 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003, the burden of getting their declaration renewed every three years is on the petitioners and in view of the fact that such a renewal has not taken place, the 3rd respondent would be entitled to disregard the status of the petitioners as landless poor persons and go ahead with the auction.

7. The Proviso to Sub-Rule (3) of Rule 3 of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 reads as follows.

“(3) Notwithstanding anything contained under sub-rule(2), where a small farmer, being a lessee is holding land in excess of Ac.0-25 cents wet land or Ac.0.50 cents of dry land over and above the ceiling limits of Ac.2.50 cents wet land or Ac.5.00 cents dry land respectively, they may be allowed to continue in lease subject to payment of 2/3rd of prevailing market rent and excess land if any more than the above limits shall be taken over by the institutions and such piece of land shall be put in public auction for lease”.

“Provided the status of every Land Less Poor tenant shall be reexamined once every three years and appropriate orders shall be passed by the Assistant Commissioner having territorial jurisdiction as the economic status of any person is not a constant. It is equally applicable to cases where persons already declared as Land Less Poor tenants shall also be reviewed once every three years henceforth”.



8. A conspectus of the provisions of the Act and the Rules would show that the proviso to Section 82 (2) of the Act and the explanation to the proviso was added by Act 27 of 2002 with effect from 26.08.2002. Under this provision any person whose total extent of land held by him either as owner or cultivating tenant does not exceed Ac.2.50 cents of wet land or Ac.5.00 cents of dry land and whose monthly income other than from such lands does not exceed Rs.1,000/- per month or Rs.12,000/- per annum would be entitled to declared as a landless poor person. Rule 3 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 sets out the manner in which the lessee of a religions Endowment or Charitable Institution could be declared as a landless poor person.

9. Once such a person is declared as a landless poor person, he would be entitled to certain benefits. Firstly, he would be entitled to purchase the lands under lease whenever the Endowment or Charitable Institution chooses to sell the land. Secondly, he would be entitled to continue as lessee of the property by paying 2/3rd of the prevailing market rent to the Endowment or Charitable Institution.

10. The Proviso to Rule 3 (3) as extracted above provides for a review of the status of the tenant as a landless poor person once in every three years. This provision does not require the landless poor persons to obtain a fresh certificate every 3 years



setting out his status as a landless poor person. The said proviso only permits the Endowments Authorities to review the status of the lessee and to ascertain whether the said lessee is entitled to be continued as a landless poor person or not.

11. In that view of the matter, the contentions of Sri G.Ramana Rao that the burden of renewing the landless poor certification is on the tenant, cannot be accepted.

12. In the present case, the petitioners have already been recognized as landless poor persons by way of proceedings in 2004. There has been no subsequent proceedings setting aside the proceedings passed in 2004 on the ground that all or any of the petitioners have ceased to landless poor persons.

13. In the circumstances, the petitioners would be entitled to continue as tenants of the 3rd respondent, subject to the condition of paying 2/3rd of the market value of the rent and subject to such other provisions of the Act and Rules.

14. Needless to say, it shall always be open to the 3rd respondent to ascertain or verify the market value of the rent in accordance with the rules.

15. For the reasons set out above, this writ petition is allowed by setting aside the auction notice dated 12.10.2020. However, it shall be open to the 3rd respondent to ascertain the market value of the rent payable by the petitioners either by way



of a public auction or any other method permitted under the Rules. Upon such verification, the 3rd respondent would have to call upon the petitioners to pay 2/3rd of the said market value as rent.

16. Accordingly, the writ petition is allowed. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J.

06.07.2021

Note: L.R. copy to be marked.

B/o.

SDP



HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

WRIT PETITION No.19149 of 2020

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