

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.40058 OF 2014

ORDER :

This writ petition is filed seeking writ of mandamus declaring the action of the respondents 3 and 5 in directing the petitioners and inmates/occupants/staff/security of Pragati Charitable Trust to vacate from the premises of Pragati Charitable Trust on or before 31.12.2014 as illegal and arbitrary and consequently to direct the respondents 1 to 5 and 8 to continue the Pragati Charitable Trust along with Working Women Hostel.

2. Brief facts that are necessary for disposal of the writ petition are that the 5th respondent is a service organization established and registered with the District Registrar, Visakhapatnam on 31.10.1983 as a Public Charitable Trust to bring various welfare measures for the benefit of the needy women in the society by late Smt. Avula Jayaprada Devi, a veteran in the field of social work. The said trust received aid from the Central Government for construction of its buildings and also received funds from the State Government as well as from donations from the local public. The Trust has undertaken many welfare activities for overall development of women from the weaker sections to earn their livelihood. In the year 1993, the 5th respondent constructed second floor on the existing building to expand the working women hostel with Rs.12.47 lakhs sanctioned by the Department of Women and Child Development and in September, 1993, a full fledged working women's hostel was opened with the occupancy capacity of 90 inmates. The 5th respondent trust is providing shelter for working women, girls in distress and orphans in short stay home and it has staff nearly 10 in number for the efficient day to day functioning of the 5th respondent and also providing care, protection and rehabilitation on the directions of Metropolitan Magistrates, Police etc. That on 31.10.2014, a notice was displayed on the notice board of the 5th respondent directing all the inmates of the 5th respondent trust to vacate the building on or before 31.12.2014 with belongings. That the 5th respondent trust is functioning since the year 1992-1993 as per the list of working women hostels sanctioned in

Andhra Pradesh. The petitioners herein and other inmates of the 5th respondent trust have submitted representations to various authorities for taking necessary action in the matter, but so far no action has been taken for continuing the 5th respondent trust. The action of the 3rd respondent in issuing notice dated 10.07.2013 to the 5th respondent, directing the 5th respondent to vacate the premises of Pragati Charitable Trust building by 31.07.2014 and further extending the time till 31.12.2014 and the consequential notice of the 5th respondent dated 31.10.2014 calling upon the inmates of the 5th respondent to vacate the premises of Pragati Charitable Trust on or before 31.12.2014 is being challenged in the present writ petition.

3. Counter affidavit is filed by the 3rd respondent denying the averments of the affidavit filed in support of the writ petition stating that the writ petition is in the nature of Public Interest Litigation and is not maintainable under law. The petitioners have no interest in the subject property and they are residents of Hyderabad. It is stated that a meeting was convened by the District Collector, Visakhapatnam regarding the issue, wherein he directed the Women and Child Welfare Department to provide accommodation to the inmates of the Pragathi Charitable Trust, Visakhapatnam, as such, the Women and Child Welfare Department has expressed their willingness to provide accommodation to the inmates of the Pragathi Charitable Trust, Visakhapatnam. That the Andhra University administration has allotted 2000 sq.yards of University land near the respondent University in gate to 'Andhra University Ladies' Club' considering the request of the then President of Andhra University Ladies Club in the year 1983 to benefit the children, women and unemployed youth of University community. However, the land obtained from the University was transferred by Smt. A.Prabhavathi from Andhra University Ladies' Club to Pragathi Charitable Trust through a registered deed No.12456, dated 31.10.1983 and she claimed herself as the Founder Donor without informing the respondent University and without obtaining consent from University, which is illegal and objectionable. It is stated that the trust deed itself contains provisions to handover the buildings to the University and when the trust intends to handover the short stay inmates have no right much less any legal right to maintain the present writ petition. It is further stated that there are 4500 girls pursuing higher studies in Andhra

University Campus and they are all suffering for accommodation. It is stated that in order to accommodate girl students, the University has decided to use the building under the control of Pragathi Charitable Trust. By virtue of the letter dated 29.06.2014/22.08.2014, the 5th respondent Trust requested the University to suitably compensate the trust financially for the value of the building in order that the trust may construct a similar building and continue the welfare activities at any other suitable location and to retain the name of the building as 'Avula Jayaprada Devi Bhavanam' as it exists and also to give six months to vacate the said building and the same was considered by the University and requested the 5th respondent to hand over the subject building on or before 31.12.2014. It is further stated that there is no conflict between Andhra University and Pragathi Charitable Trust as far as handing over of the building premises of Pragathi Charitable Trust to Andhra University. It is further stated that the Women and Child Welfare Department is ready to provide accommodation to the inmates of the Pragathi Charitable Trust, Visakhapatnam.

4. Heard Smt. S.Nanda, learned counsel for the petitioners, Sri P.B.Vijay Kumar, learned Standing Counsel for the respondent University as well as learned Government Pleader for Home.

5. W.P.M.P.No.2833 of 2015 is allowed and petitioners 3 to 14 are impleaded as petitioners to the writ petition.

6. This Court, by orders dated 27.12.2014 has granted interim stay till 31.01.2015 and the same was extended from time to time.

7. In the instant case, the 3rd respondent has issued notice dated 10.07.2013 and directed 5th respondent Trust to vacate the premises by 31.07.2013 and handover the same to the University Administration. The 5th respondent Trust has agreed to vacate the same and addressed letter dated 29.06.2014 to the 3rd respondent University requesting them to grant six months time to vacate the trust building and also to retain the existing name of the building as 'Avula Jayapradha Devi Bhavanam'. On 09.07.2014, the 3rd respondent had considered the request of the 5th respondent Trust and granted time till six months till 31.12.2014 to handover the possession of the trust building and also

considered to retain the name as 'Avula Jayapradha Devi Bhavanam'. A perusal of the impugned notice shows that the petitioners have not stated as to what is their legal right to continue in the premises. No provision of law is brought to the notice of this Court stating that the petitioners are entitled to continue in the said premises allotted by the 3rd respondent University. A copy of the Trust deed dated 31.10.1983 is filed wherein it shows that it was executed by Andhra University Ladies' Club, Visakhapatnam, represented by its Secretary

Smt. Amaravadi Prabhavati, W/o.Sri Amaravadi Venkatarama Sastry, as a Donor Founder and Smt. Avula Jayapada Devi, wife of Sri Avula Sambasiva Rao and others. Nowhere it is shown in the Trust Deed that it was executed by Andhra University, but executed by Smt.Amaravadi Prabhavati, Secretary of Andhra University Ladies' Club in favour of 5th respondent Trust was also established. Be that as it may, the inmates of the 5th respondent Trust has no legal right to continue in the said trust, especially when the 5th respondent Trust itself intends to handover the said building to the 3rd respondent University. More over in the counter affidavit of the 3rd respondent, it is clearly stated that the Women and Child Welfare Department is ready to provide accommodation to all the inmates of the Pragathi Charitable Trust, Visakhapatnam. When the Government of Andhra Pradesh is ready and willing to provide shelter and take care of the situation, the petitioners, who have no manner of right, much less the legal right, cannot resist the 3rd respondent University from taking over the possession of the 5th respondent Trust building.

8. Learned counsel for the petitioners submits that the 5th respondent Trust, though not established under the statute, is discharging public duties, by performing welfare activities for the development of destitute women and child and therefore, contends that the petitioners are entitled to continue in the 5th respondent Trust and sought writ of mandamus directing the 3rd respondent University to continue the inmates of the 5th respondent Trust in the said building. In support of her contention, she relied on the judgment reported in **Shri Anandi Mukta Sadguru Shree Muktajee Vandasjiswami Suvarna Jayanti Mahotsav Smarak Trust and others, v. V.R.Rudani and others** contending that writ of mandamus can be issued to any other person or authority performing public

duty and that duty need not be imposed by statute and that it is not confined to any statutory authorities and instrumentalities of the State. There is no dispute with regard to the principle laid down. In the instant case on hand, the 5th respondent Trust has agreed to handover the building premises to the 3rd respondent University and that the 3rd respondent has categorically stated in the counter affidavit that Women and Child Welfare Department is ready to provide accommodation to the inmates of the 5th respondent Trust.

9. The Project Director, DW & CDA, Visakhapatnam has addressed letter dated 27.12.2014 to the Secretary, Pragathi Charitable Trust, Visakhapatnam, which reads as under:

“It is to informed that the District Collector, Visakhapatnam instructed the Project Director, DW & CDA, Visakhapatnam to accommodate the inmates of Short Stay Home in SWADHAR Homes and inmates of WWH in our Working Women’s Hostels who are now in SSH & WWH run by Pragathi Charitable Trust in the meeting held on 26.12.2014.

In this connection, the Secretary, Pragathi Charitable Trust is requested to furnish the list of inmates who are interested to move into the Working Women’s Hostels run by DW & CW,Dept. and inmates list of short stay home immediately.”

In view of the above letter of the Project Director, DW & CDA, the inmates of the 5th respondent Trust should not have any objection for vacating the premises. Moreover, the petitioners have not shown under what authority of law they intend to continue in the said premises. Even though it is asserted that the 5th respondent Trust building is constructed with the funds of State and Central Government, but still the land belongs to the 3rd respondent University and when admittedly, the subject land belongs to the 3rd respondent University and 5th respondent Trust agreed to surrender the same to the University, the petitioners, who are inmates of the Trust building, without any legal right, cannot seek writ of mandamus for their continuation in the said premises. Therefore, no mandamus can be issued under Article 226 of the Constitution of India. As such, I do not see any merit in the writ petition and same is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in the writ petition, shall stand dismissed.

A.RAJASHEKER REDDY, J

04.06.2015

kvs

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Date: 04.06.2015

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