

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 28830 of 2015

Date : 16-9-2015

Between :

K V V L Narasimha Rao

R/o 31-5-23/102, Suseela Mansion, Prakash Rao Street

Maruthinagar, Vijayawada

Petitioner

And

The State of Andhra Pradesh

Rep by its Principal Secretary (PR & RD) Secretariat,

Hyderabad and others

Respondents

The Court made the following:

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ORAL ORDER:

Petitioner is grand son of late Sri Kattamuri Narasimham. Sri Kattamuri Narasimham has gifted land to an extent of Ac.3.36 in Survey No. 13/1, Vaddavalli, Sattenapalli, Guntur district by way of registered document No. 3068/1946 dated 14.10.1946 in favour of Zilla Praja Parishad. He desired that Industrial Training Institute (ITI) be constructed at the subject place and to utilize the property for that purpose. However, he also stated that if for any reason ITI cannot be established, the property may be utilised for any other purpose by Zilla Praja Parishad on his name but it shall not allow illegal encroachments.

2. Petitioner is aggrieved by recent actions of Zilla Praja Parishad wherein decision appears to have been taken to construct a guest house in the subject premises and foundation stone was already laid. According to learned counsel for petitioner, construction of guest house is not in tune with intendment of the donor and therefore said action is ex-facie illegal.

3. Learned counsel for petitioner also seeks to contend that there is litigation pending on the same subject and recently Zilla Praja Parishad has instituted O S No. 172 of 2014 on the file of the District Munsif, Sattenapalli for declaration that the plaintiff is absolute owner of the plaint schedule property and sought for consequential permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit property. Petitioner herein is arrayed as first defendant therein. Learned counsel contends that since Zilla Praja Parishad is litigating on the issue of interference and possession and since suit is pending, it ought not to have undertaken construction of building on the suit schedule property.

4. Concerning same property, earlier Sri N Amerendra filed W P No. 583 of 2014 claiming that he is General Power of Attorney holder of petitioner herein and property was sold to him on payment of full sale consideration. That he is in possession and enjoyment of the property whereas Zilla Praja Parishad is trying to erect fencing around the property and claiming the property as belonging to it, whereas they have already lost litigation before this Court.

5. While considering the said writ petition, this Court has taken note

of judgment rendered by Principal Subordinate Judge in A S No. 143 of 1969 wherein the cancellation of earlier gift deed was in issue and it was held that such cancellation is illegal and property is vested in Zilla Praja Parishad permanently. The Court below also noticed that in terms of the gift deed it is permissible for the Zilla Praja Parishad to utilize the land for any other purpose and not to confine to construction of ITI building. Having regard to the earlier litigation and the authoritative pronouncement in A S No. 143 of 1969 the claim of the petitioner in W P 583 of 2014 alleging illegal interference by Zilla Praja Parishad was rejected and writ petition was dismissed by order dated 20.8.2015. Petitioner as a member of the family of donor, the issue stood settled by judgment and decree in A.S. No. 143 of 1969 and the issue of ownership of the subject property vesting in Zilla Praja Parishad has become final.

6. Insofar as construction of a guest house in the subject property is concerned, as noted above, the gift deed recitals would disclose clearly that it is permissible for the Zilla Praja Parishad to utilize the subject property for any public purpose and only requirement is that it should not be misused or in illegal occupation by any person. Further requirement is that name of the donor should be put up when any construction or activity takes place.

7. In view of the clear recitals in the gift deed, it cannot be said that action of respondent Zilla Praja Parishad in seeking to construct guest house on the subject premises is illegal, warranting interference by this Court. Accordingly, the writ petition is dismissed. It is needless to observe that, as stated by learned counsel for petitioner, O.S. No. 172 of 2014 on the file of II Additional District Judge, Guntur is pending consideration, respective claims of the parties are preserved to be adjudicated in the said suit. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE:16.09.2015
TVK

HONOURABLE SRI JUSTICE P. NAVEEN RAO

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