

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.755 of 2009

Date: 05-08-2015

Between:

Nahayim Gospel Church, represented by its

President, Khazipet Jagir, Hanamkonda, Warangal District

.... Petitioner

AND

The Warangal Municipal Corporation,

Represented by its Commissioner and 3 others

.... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.755 of 2009

ORDER:

The writ petition is filed for a mandamus declaring the proceedings in Municipal Sanction No.209, File No.G2/33821/2008, B.A.No.28/2008, dated 01-12-2008 issued by the 1st respondent as illegal, arbitrary and without jurisdiction and for a consequential direction to set aside the same.

2. The case of the petitioner is that the petitioner Church has purchased an open land to an extent of 800 square yards out of Survey No.27, situated at Kazipet Jagir village, through a registered sale deed vide document No.2821 of

1982, dated 28-05-1982 from Tiruvarangam Venkatram Narsamma and since then the petitioner church is in possession and enjoyment of the said property. Initially, the church was being managed by the father of the President and after his death, the mother of the President was managing the affairs of the church and the new Managing Committee was constituted in the month of January, 2008 and the said new Managing Committee has decided to construct a building and accordingly applied for municipal sanction on 22-05-2008 by depositing a sum of Rs.13,600/- to Kakatiya Urban Development Authority along with other charges. While the said application is in process, the respondents 2 to 4 filed a suit O.S.No.1328 of 2008 on the file of II Junior Civil Judge, Warangal wherein it was pleaded that one J. Prem Swaroop Pratap has sold the lands in favour of respondents 2 to 4 herein and that the 1st respondent-Corporation has accorded permission vide permission No.209 in B.A.No.228/2008 vide File No.22/3382/2008, dated 21-11-2008 and the petitioner came to know about the illegal action on the part of the 1st respondent in according permission to respondents 2 to 4 for construction of houses. Challenging the said permission granted by the 1st respondent-Corporation in favour of respondents 2 to 4, the present writ petition has been filed.

3. Respondents 2 to 4 filed their counter denying the allegations of the petitioner and *inter alia* contending that they have purchased the subject property in the year 1990 from one J.S. Prem Swarup, who became the President of the petitioner church by virtue of three different sale deeds and thereafter they applied for permission for construction of a house and the Municipal Corporation accorded permission and they completed the said construction and paying the property taxes regularly to the 1st respondent Corporation. The respondents 2 to 4 further stated that after the sale of property by the petitioner church being represented by J. S. Prem Swaroop, the then president of the church obtained a rectification deed said to have been executed by the original owners, from whom the petitioner purchased the land and by virtue of the same, he is trying to grab the property, which is already sold to the respondents 2 to 4, and sought for dismissal of the writ petition.

4. Heard the learned counsel for the petitioner and the learned counsel for respondents 2 to 4.

5. It is to be seen that while granting building permission, the Municipal Authorities are not obligated to make a roving enquiry into the title of the person over the property, except prima facie possession or title of the person making the application for grant of permission and the 1st respondent granted building permission basing on which the construction was made and completed. It is also to be noted that when the president of the petitioner church tried to interfere with the possession of the respondents 2 to 4, a civil suit is filed by them for grant of perpetual injunction restraining the petitioner church from their possession and the same is pending for adjudication. In that view of the matter, this court, in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, cannot go into disputed questions of fact regarding right, title or interest in the property, which can be decided by a competent civil court. Mere granting of building permission does not confer any title to any person and it is always subject to declaration of title by the competent civil court. If the petitioner has any grievance in respect of the action of the 1st respondent and the purchase made by respondents 2 to 4, it is open for the petitioner to approach the competent civil court for declaration of his rights. Therefore, at this point of time, the order impugned cannot be set aside and the writ petition is devoid of merit and the 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 shall stand closed.

A. RAJASHEKER REDDY, J

Date: 05-08-2015

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