

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.32233 OF 2012

ORDER

This writ petition is filed for a *writ of mandamus* declaring the action of the respondents in not considering the representations of the petitioner dated 15.02.2011 and 25.08.2011 and further action of the 4th respondent in utilizing the patta land of the petitioner admeasuring 277.77 sq.yards ub Sy.No.45 of Palavoncha for construction of community hall, as illegal and arbitrary and for a consequential direction to the respondents to consider the request of the petitioner for appointment of her sons in the 4th respondent Municipality as agreed by them or in alternative restore the possession of the land belonging to the petitioner.

The case of the petitioner is that she belongs to poor family and she is having land to an extent of 12 guntas in Sy.No.45 of Palvoncha. While so, the municipal authorities with an intention to construct a community hall with the funds granted under SJSRY and NSDP schemes approached the petitioner and requested her to give the above said land for construction of community hall promising that they will provide employment to their sons after their studies. The petitioner and her husband keeping in view the future of their children have agreed to give the land for construction of the community hall. Accordingly, the respondent-Municipality constructed the community hall in an extent of 277.77 sq.yard. Thereafter, the petitioner after completion of the studies of their sons made representations dated 02.02.2011, 15.03.2011 and 25.08.2011 to the respondents requesting them to provide employment to her sons in the Municipality basing on their qualifications. It is also stated that petitioner has not executed any gift deed in favour of the respondents nor the respondents have acquired the land under the provisions of Land Acquisition Act and they have not even executed an agreement to the effect that they will provide

employment to the sons of the petitioner. When the petitioner made representations to the respondents 3 to 6, the 6th respondent after conducting enquiry sent a report vide proceedings dated 25.06.2012 to the 5th respondent stating that the said land belongs to the petitioner and petitioner has purchased the land under a registered sale deed dated 27.06.1996. It is also stated that there is no entry stating that the petitioner has donated the said land to the Municipality. Aggrieved by the action of the respondents in not considering the representations made by the petitioner, the present writ petition is filed.

Counter affidavit is filed by the 4th respondent stating that in pursuance to the National Slum Development Programme, while the Government was looking for a place for construction of a community hall at Gadiakatta, Old Palavoncha, the petitioner and her husband gifted the subject land to the Municipality by executing a unregistered gift deed in favour of the Municipality. It is also stated that a perusal of the gift deed would reveal that it was not a conditional gift and even the records available with the Municipality do not reveal that any alleged promise was made by the then Commissioner to provide employment to the sons of the petitioner. It is further submitted that the petitioner did not raise any objection for all these years and has filed the present writ petition at a belated stage would indicate that the present case is after thought and petitioner has no legal enforceable right in asking to provide employment to her sons. As such, sought for dismissal of the writ petition.

Heard the learned counsel for the petitioner, learned Assistant Government Pleader for respondents 3, 5 and 6 and Sri N.Praveen Kumar for respondent No.4.

In this case, petitioner and her husband admitted that they have gifted the land to the Municipality for construction of community hall and even according to the petitioner, construction is completed. The respondents submit that though community hall is constructed more

than a decade ago, petitioner never objected for the same and no provision of law is shown on what basis the respondent authority can grant employment to the petitioner. Writ petition is liable to be dismissed on the ground of laches. The petitioner cannot ask for employment without any basis. Since the petitioner approached the Court only after ten years after construction of the community hall, this Court cannot go into the disputed questions of fact and also this Court cannot issue mandamus to provide employment or restore the land to the petitioner exercising jurisdiction under Article 226 of Constitution of India. Hence, the writ petition is dismissed. However, it is open for the petitioner to avail alternate remedies available to her under law. There shall be no order as to costs.

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

A.RAJASHEKER

REDDY,J

Date: 26.06.2015

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