

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V.BHATT

PUBLIC INTEREST LITIGATION No.108 OF 2015

DATED: 13.07.2015

Between:

Guttula Muralidhar Rao

... Petitioner

and

The State of Andhra Pradesh and others

... Respondents

**THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V.BHATT**

PUBLIC INTEREST LITIGATION No.108 of 2015

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PC: (per the Hon'ble The Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the petitioner, learned Government Pleader for respondent Nos.1 to 6 and Smt. K.Lalitha, learned counsel for respondent No.8. Notice to respondent No.7 is dispensed with having regard to a few developments in the matter.

The petitioner in the instant PIL seeks the following relief:

“For the reasons stated in the accompanying affidavit it is prayed that this Hon'ble Court may be pleased to issue Writ of Mandamus or any other appropriate Writ, order or direction, declaring the action of the respondents herein, in trying to construct Pushkaram Camp Office in the land belongs to Sri Gowthami Jeevakarunya Sangam, Rajahmundry, the 8th respondent herein, without acquiring the land under Land Acquisition Act, and without paying compensation to the 8th respondent herein, as illegal, arbitrary, without competency, in breach of Constitutional provisions, and contrary to the provisions of Hyderabad Municipal Corporation Act, and consequently direct the respondent No.1 to 7 herein, not to construct Puskharam camp office in the 8th respondent's land without following the due procedure contemplated under Hyderabad Municipal Corporation Act, without acquiring the

land under Land Acquisition Act, and without paying compensation to the 8th respondent herein and pass such order or orders as may be just and necessary in the interest of justice.”

The petitioner has made the afore-mentioned prayer contending that respondents 1 to 7 are carrying on construction over the property belonging to respondent No.8 without following the due procedure of acquiring the land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Reconstruction Act, 2013.

In reply to these allegations, respondent No.2 filed counter-affidavit and in paragraphs 6 and 7 stated thus:

“It is submitted that since the Executive officer of 8th respondent institution gave consent to construct Pushkaram Camp Office in the vacant land of the institution which is not in use for the present as the proposed construction of building is very beneficial to the institution, the Regional Joint Commissioner, Endowments Department, Kakinada i.e. 3rd respondent herein submitted proposals to the Commissioner of Endowments Department i.e. 2nd respondent vide Lr No.A3/4644/2014 dt.24.11.2014 informing the consent of Executive Officer of 8th respondent institution and requested to sanction an amount of Rs.80 lakhs as per estimates prepared by the Departmental Engineers.

Considering the report of the Regional Joint Commissioner, Endowments Department, Kakinada vide Rc.No.A3/4644/2014, Dt.24.11.2014, the Commissioner of Endowments Department issued orders vide Rc.No.Q1/19112/2014, Dt.08.12.2014 authorizing the Regional Joint Commissioner, Endowments Department, Kakinada to take up the work of construction of a building in the vacant site which is

not used for the present in the premises of Sri Gowthami Jeevakarunya Sangam, Rajahmundry and after completion of Godavari Pushkarams, the building shall be handed over to Sri Gowthami Jeevakarunya Sangam, Rajahmundry, East Godavari District and the said building shall be utilized for the purpose of establishing the office of the Assistant Commissioner, Endowments Department, Rajahmundry as well as office of the Regional Joint Commissioner, Endowments Department, Kakinada subject to condition that the rent is paid to Sri Gowthami Jeevakarunya Sangam, Rajahmundry as per norms fixed by the R&B Department with a request to Regional Joint Commissioner, Endowments Department, Kakinada to take further action in the matter.

It is submitted that since the Government taking the Godavari Pushkarams as prestigious event to make necessary amenities to the visiting pilgrims during Pushkaram days, an amount of Rs.80 lakhs has been sanctioned as administrative sanction for construction of Pushkaram camp office in the vacant site belonging to 8th respondent institution by the Commissioner of endowments Department vide Rc.No.Q1/19112/2012 dt. 08.12.2014 and technically sanctioned by the Engineer-in-Chief, Panchayathraj Department, Govt. of A.P. Hyderabad vide proceedings Lr.No.AEE1-DEE5-Endts-GP/2015 dt.3.1.2015 and tenders also invited through E-Procurement and it was entrusted to lowest tenderer Sri R.S.Santharam at 6.39% less than the estimated value vide proceedings of the Commissioner of Endowments Department Q/1888/2015-5 dt: 05.02.2015 and work is nearing completion.

The contention of the petitioner that the respondents are not acquiring the land under Land Acquisition Act and without paying compensation to the institution is not correct as the Land Acquisition Act is not applicable to the Religious and Charitable Institutions and the proposed construction of Pushkaram Camp Office is beneficial to the institution and after taking consent of the Executive Officer of 8th respondent institution,

the proposed construction is taken place in the vacant land which is not in use for the present by the 8th respondent institution.”

From a perusal of the aforesaid paragraphs, it is clear that respondents 1 to 7 are making construction of a building with the consent of respondent No.8 as part of providing amenities in the on going Godavari Pushkaralu. It is evident that after Godavari Pushkaralu, which will be held between 14th of July and 25th July 2015, the ownership of the building will be handed over to respondent No.8 and the respondents' Offices will continue on lease, for which, they will pay substantial lease amount as determined by R&B. It is needless to state that the respondents ensure payment of rent for the property it enjoys as lessee of respondent No.8.

Respondent No.8 has also filed counter-affidavit supporting respondent No.2 and learned counsel appearing for respondent No.8 confirms whatever has been stated by respondent No.2 in his counter-affidavit.

Keeping that in view, we find no merit in PIL.

PIL is accordingly dismissed.

Consequently, miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

13th JULY, 2015.

S.V. BHATT, J

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