

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.1195 OF 2011

ORDER:

Challenge in the present writ petition is to the action of the respondents in not naming the School in the name of the donors despite repeated representations on the proceedings of the District Education Officer – 3rd respondent herein in Rc.No.4736/C6/2009, dated 01.09.2010 and the proceedings of the Chief Executive Officer, Zilla Parishad, Guntur – 4th respondent herein in L.Dis.No.3682/2009-B1, dated 01.07.2009.

2. According to the petitioner, his father, one Sri Gunda Nagabhushanam and his paternal uncle, Sri Gunda Pullaiah, were the owners and possessors of the land admeasuring 507 square yards with a building thereon situated at Machavaram Village, Piduguralla Mandal, Guntur District and they executed a Gift deed bearing Document No.1304 of 1973, dated 01.09.1973, in the name of Block Development Officer, Piduguralla, for using the same for running school in the name of the donors. It is further pleaded that on the date of execution, the possession was taken by Block Development Officer, now called the Mandal Parishad Development Officer – 5th respondent herein; that initially the school was in the name of Government Primary School and later, named as Mandal Parishad Primary School and a plaque was arranged in the site showing that the land and building were donated by the petitioner's father and paternal uncle; that when the said plaque was dismantled, petitioner brought the same to the notice of the respondents by way of a representation dated 24.06.2009, while stating that the land and building where the school is running were donated by his father and his paternal uncle. It is further pleaded that though the nomenclature of the school is shown as

“Gunda Nagabhushanam and Gunda Pullaiah Mandal Parishad Primary School, Machavaram”, the said nomenclature is not being used officially i.e., at the time of issuance of certificates and while corresponding with the authorities; that the petitioner made a representation dated 08.09.2009 and on 24.06.2009, the District Educational Officer –

3rd respondent herein asked the Mandal Executive Officer, Macherla, to submit a report so as to enable him to take further course of action;

4th respondent – the Chief Executive Officer of Zilla Parishad, Guntur, vide Letter Dis.No.3682/2009-B1, dated 01.07.2009, asked the 5th respondent – the Mandal Parishad Development Officer, to take steps to name the school in the name of the donors in accordance with rules in force; the 3rd respondent- District Educational Officer, Guntur District, vide letter Rc.No.4736/C6/2009, dated 01.09.2010, addressed to the Project Officer, Rajiv Vidya Mission, Guntur, stating that as per the instructions contained in their office letter dated 27.11.2009, he released the funds for re-construction of building; that if the respondents do not intend to name the school after the donors, it is open for the respondents to handover possession to the legal representatives of the donors along with structures.

3. Pleading in the manner indicated supra and alleging inaction on the part of the respondents, the present writ petition came to be filed. Resisting the writ petition, counter affidavits have been filed by the 3rd respondent – District Educational Officer and the 5th respondent – Mandal Parishad Development Officer.

4. Heard Sri N.Subba Rao, learned counsel, appearing for the petitioner and the learned Government Pleader for Education and Sri Ravi Cheemalapati, learned standing counsel, appearing for the 5th respondent, apart from perusing the material available before the Court.

5. According to the learned counsel for the petitioner, the impugned action on the part of the respondents is highly illegal, arbitrary, unreasonable and violative of Article 14 of the Constitution of India and is a deliberate attempt to defeat and frustrate the intention of the donors. It is further submitted that having admitted the execution of Gift deed, there is no justification on the part of the authorities in declaring to consider the request of the petitioner; that the instructions issued vide G.O.Ms.No.162, School Education (MC.2) Department, dated 14.11.2004 cannot be made applicable as the Gift deed was executed in the year 1973; that the contention that the subject site is a poramboke land and does not belong to the petitioner cannot be sustained.

6. On the contrary, it is contended by the learned Government Pleader and the learned standing counsel for the 5th respondent that there is absolutely no illegality nor there exists any procedural infirmity in the impugned action and in the absence of the same, the present writ petition is not maintainable and the petitioner herein is not entitled for any relief from this Court under Article 226 of the Constitution of India. It is further submitted that the claim of the petitioner is not permissible in view of the instructions issued by the State Government vide G.O.Ms.No.162, dated 14.11.2004 and that the property does not belong to the petitioner and it is a village poramboke land as per the report of the Tahsildar.

7. In the above background, now the issues that emerge for consideration of this Court are:

1. Whether the respondents are justified in applying the instructions of the State Government issued Vide G.O.Ms.No.162, School Education (MC.2) Department, dated 14.11.2004?
2. Whether the grievance of the petitioner can be addressed and whether he is entitled for redressal of

his grievance under Article 226 of the Constitution of India?

Issue No.1:

8. According to the petitioner, his father and his paternal uncle owned the subject land and building and they gifted the said property to the Government by way of a Registered Gift deed dated 01.09.1973 vide Document No.1304/1973 for the specific purpose of running a school in their names. One of the reasons assigned in the counter for denying the claim of the petitioner is that the order issued by the State Government vide G.O.Ms.No.162, dated 14.11.2004, would not permit the naming of the building after its donor unless the value of donation exceeds five (5) lakh rupees in the case of Primary Schools and the value of the subject land is only Rs.2.75 lakhs. In the considered opinion of this Court, the said reason, by any stretch of imagination, cannot be sustained in the eye of law and in fact, the same is preposterous. In the instant case, the registered Gift deed, consisting of the clause for naming the building after its donors, was executed as long back as on 01.09.1973, whereas the instructions were issued by the Government Vide G.O.Ms.No.162, dated 14.11.2004 and the said instructions are only prospective in nature and cannot be given retrospective effect. Therefore, this Court finds no justification on the part of the respondents in declining to consider the request of the petitioner on the said ground and accordingly Issue No.1 is answered against the respondents and in favour of the petitioner.

Issue No.2:

9. According to the writ pleadings, petitioner's father, Sri Gunda Nagabhushanam and paternal uncle, Sri Gunda Pullaiah owned the subject property and they gifted the same in favour of the respondent by a registered Document No.1304/1973, dated 01.09.1973, with the condition that the property should be used for running a school in their names and a copy of the said document is also placed on record and

its execution is also not denied and Paragraph No.4 of the counter filed by the

5th respondent reads as under:

“4. I submit that the Mandal Parishad Elementary School at Machavaram village is under the control of the District Educational Officer, Guntur. The said school was established in the year, 1973 in the building donated by Sri Gunda Nagabushanam and Gunda Pullaiah under a gift deed on 21.09.1973. Earlier the said school building was used as chowltry. After taking over the said building for the purpose of the school named it as “Gunda Nagabushanam & Pulliah Machavaram Mandal Parishad Primary School, Machavaram”. Since then the official stamps are being used by the Head Master for issuing the certificates or to correspond with the higher authorities or officials, only in the name of “Headmaster, Mandal Parishad Primary School, Machavaram, Government Hospital Road, Machavaram village and Mandal, Guntur District”. The name of the donors of the building was erected on the main entrance board only. It was not recorded officially in the records of the school or in the records of Mandal Parishad office as the name of the school is “Gunda Nagabushanam & Pullaiah Machavaram, Mandal Parishad Primary School”. Till the date of demolition of the said building for reconstruction under the scheme of Rajiv Vidya Mission (SSA) this is the situation with regard to the said school.”

10. At the same time, it is the case of the respondents that on the letter addressed by the Mandal Parishad Development Officer – 5th respondent, Tahsildar, vide Letter No.32/2011/A, dated 08.03.2011, informed that the school is located in Acrs.1.08cents in Survey No.303/B/2-B of Machavaram Village and Mandal and is classified as village site poramboke as per the revenue records and the land said to have been donated does not belong to the petitioner, as such, the request of the petitioner cannot be considered in the absence of any right.

11. According to the letter dated 08.03.2011, addressed by the Tahsildar to the Mandal Parishad Development Officer, which is placed on record, the school is located in Survey No.303/B/2-B of Machavaram and it is a village site poramboke. The case of the petitioner is that the respondents have either to name the school in the name of its donors or to return the property.

12. In view of these factual controversies, this issue cannot be verified by this Court unless the parties adduce evidence before an appropriate forum of law. Therefore, it is open for the petitioner to approach the appropriate forum of law for redressal of his grievance, pertaining to the title to the property and also for consequential reliefs.

13. For the aforesaid reasons, Writ Petition is disposed of, with the observations as indicated supra. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

30.06.2016
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