

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 35062 of 2016

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue.

2. With the consent of both the parties, the Writ Petition is disposed of at the admission stage.

3. The present Writ Petition came to be filed with the following prayer:

'For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings in Rc.No.3039/2006/E2, dated 15.03.2016 issued by respondent No.3, whereby handing over Ac.0.04 cents of land in Survey No.52/2, situated at Mindi Village, Gajuwaka Mandal, Visakhapatnam District to respondent No.6 and the consequential proceedings Rc.No.413/2011/SA, dated 27.07.2016 issued by respondent No.5 as illegal and arbitrary.

4. It is to be noted that the petitioner is a religious church established in Survey No.52/2 of Mindi Village, Gajuwaka Mandal, Visakhapatnam District in land admeasuring 25 cents out of the 79 cents allotted by the Collector, Visakhapatnam, vide proceedings Rc.No.3008/81/B2, dated 01.03.1983. The remaining 50 cents was allotted to other religious organizations. It is further stated

that there is a land admeasuring Ac.0.04 cents situated adjacent to the petitioner-church which is in the custody of revenue authorities. The petitioner made a representation to respondent No.1 to consider for allotment of Ac.0.04 cents of land situated adjacent to the petitioner-church for construction of an orphanage and old age home for women. Thereafter, respondent No.4 vide Rc.No.10276/2009/D, dated 12.09.2014 sent proposals for alienation of the land in favour of the petitioner. Since there was a proposal to construct compound wall around the aforesaid Ac.0.04 cents of land, the petitioner filed W.P.No.24108 of 2015 challenging the action of respondent Nos.6 and 7 therein, pending consideration of the representation for alienation of the land on market value. This Court vide order dated 03.08.2015 disposed of the said writ petition with the following direction:

“It appears the subject land belongs to the Revenue Department and the request of the petitioner as well as the GVMC for allotment of the said land is pending with the District Collector. At this stage, the construction of the compound wall by the GVMC is totally unwarranted. Ultimately, if the land is allotted to the petitioner, the huge public money spent on for construction of the compound wall would be wasted.

In the facts and circumstances and having regard to the rival claims of the petitioner as well as the GVMC, I deem it appropriate to direct the District Collector, Visakhapatnam to pass appropriate orders on the representation of the petitioner for allotment of four cents of land in Survey No.52/2 of Mindi Village, as expeditiously as possible, preferably, within three weeks, from the date of receipt of a copy of this order. Till such decision is taken by the District Collector, the GVMC-6th respondent shall not undertake to construct the compound wall. However, it is also directed that the

petitioner shall not encroach into the said land nor seek to alter the status of the land till the District Collector takes a decision for allotment of the same in favour of the petitioner”.

It is stated that the impugned order came to be passed by the District Collector contrary to the directions given by this Court and as such the present writ petition is filed.

5. The only ground urged by the learned counsel for the petitioner is that though this Court vide order dated 03.08.2015 directed the District Collector to consider the application made by the petitioner, but without considering the same, the District Collector issued proceedings dated 15.03.2016 and the consequential proceedings issued by respondent No.5 is also contrary to the orders passed by this Court.

6. Learned Government Pleader for Revenue and Sri Lakshmi Narayana, learned Standing Counsel for Municipal Corporation would submit that the possession has already been handed over to the GHMC in the month of August, 2016 and as such the question of handing over the land to the petitioner would not arise.

7. Without expressing any opinion on the merits of the case and also with regard to possession of the land, the present writ petition is disposed of directing the District Collector to comply with the order dated 03.08.2015 passed in W.P.No.24108 of 2015 by considering the application made by the petitioner as directed by this Court earlier, in accordance with law and pass orders as

early as possible, preferably within a period of six weeks from the date of receipt of a copy of this order.

8. Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE C.PRAVEEN KUMAR

10.11.2016,
vnb

