

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT APPEAL No. 1072 of 2015

Date: 05-07-2016

Between:

The Agriculture Market Committee,
New Osmangunj, Hyderabad
Rep by its Selection Grade Secretary,
Agricultural Market Committee,
Bowenpally, Secunderabad

and

M/s. Jaksani Krishna Murthy and son
Hissamgunj, Secunderabad
Rep by its Prop Jeksani Krishna Murthy and others

.....Respondents

The Court made the following:

HON'BLE SRI JUSTICE P. NAVEEN RAO

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PC: (Per the Hon'ble Sri Justice P.Naveen Rao)

By the order under appeal, the learned single Judge directed Agricultural Market Committee to allot shop in Agricultural market yard at Boinpally in Secunderabad to the second petitioner in the writ petition on payment of Rs.19,17,900/-.

2. The parties are referred to arrayed in the writ petition.

3. Heard Sri R. Raghunandan Rao, learned senior counsel for second petitioner and Sri S.Sharat Kumar, learned Special Government Pleader (TS) for respondents.

4. Petitioners challenged the order dated 5.3.2004 rejecting their request for allotment of shops in the Agricultural Market Yard at Bowenpally, Secunderabad. During the pendency of the writ petition, Government issued orders in G.O.Ms.No. 18 Agriculture & Cooperation (MKTG.II-2) Department dated 5.2.2005 accepting the request of the petitioners and 5 others for allotment of shops in the market yard subject to payment of price determined for the respective shops. First petitioner in the writ petition, accepted the offer, paid the amount determined and shop was accordingly registered in his name. Second petitioner pursued the writ petition contending that similar shop was sold to others at the price of Rs.19,17,900/-, whereas, unreasonably the price is revised. It is his contention that he need not pay the revised amount when the respondent authorities took their own time for taking a decision. Accepting the said contention of the second petitioner, learned single Judge, directed the respondents to allot the shop to the second petitioner at the sale price of Rs.19,17,900/-.

5. In view of long pendency of litigation and in order to buy peace, second petitioner filed affidavit vide WAMP No. 1096 of 2016 agreeing to pay the amount determined in G.O.Ms.No. 18 dated 5.2.2005 to buy shop kept vacant in the market Yard. However, Sri S Sharath Kumar, submits that there is inordinate delay of more than 11 years in offering to pay the amount determined in G.O.Ms.No. 18 dated 5.2.2005 and in the meanwhile there is huge appreciation of the value of the

property. He, further, submitted that the Market Committee is also subjected to loss on account of keeping the shop vacant for all these years. Though he does not dispute the fact that the Government fixed the price and at the said price one shop was sold to first petitioner, he would submit that Market Committee would be put to huge loss if shop is sold to second petitioner at the price determined in the year 2005. He therefore submits that even if Agricultural Market Committee is directed to sell the shop to second petitioner, it has to be compensated for the delay in making the payment. In other words, Mr. Sharath Kumar would submit that Market Committee has no serious objection to sell the shop to second petitioner, it has to be compensated for the delay in making the payment, Market Committee should be compensated. According to Mr Raghunandan Rao, second petitioner is keen to give quietus to litigation and take possession of shop as early as possible. Both learned counsel, leave it to the Court to pass appropriate orders determining the price payable by second petitioner, having regard to willingness of both parties for resolution of dispute.

6. Taking note of the submissions of Mr.R.Raghunandan Rao and Mr Sharath Kumar, and in view of the orders in G.O.Ms.No. 18 dated 5.2.2005 determining the price to sell the shop in favour of the second petitioner, we are of the considered opinion that following order would meet the ends of justice.

- i) Market Committee shall work out total amount payable including simple interest @ 4 % per annum on Rs. 27,16,000/- from the date of payment of the amount by M/s. Jaksani Krishna Murthy and Son (first petitioner) till 5.7.2016 and shall intimate the same to the second petitioner within a period of 15 days from the date of receipt of copy of this order.
- ii) Second petitioner shall pay the amount determined by the Market Committee within three months from the date of intimation by the Market Committee.
- iii) On payment of full amount demanded by the Market

Committee as above, the Market Committee shall register the shop kept vacant pursuant to the interim orders of this Court in WPMP No. 9601 of 2004 in WP No. 7363 of 2004 dated 27.4.2004 to the second petitioner.

iv) Second petitioner shall abide by all other conditions and requirements on allotment of shops of the Market Committee. It is needless to observe, if second petitioner fails to comply with any of the conditions for use and enjoyment of shop allotted to him, it is always open to the Market Committee to take such course of action as available in law. It is also made clear that if the petitioner does not pay the amount determined by the Agricultural Market Committee as above within the time granted, it is open to the Agricultural Market Committee to deal with the subject shop as deemed fit and proper.

v) In view of the orders passed in this writ appeal, the order passed by the learned single Judge renders ineffective.

Subject to above directions, writ appeal is disposed of. No costs. Miscellaneous petitions, if any, stand disposed of.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date:5.7.2016
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HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE

AND

HON'BLE SRI JUSTICE P.NAVEEN RAO

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