

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 8134 of 2012

ORDER:

Petitioner is a Charitable Trust created for promotion of women and is running a Women's College known as Sri Adinarayana Mahila Kalasala at Anakapalle in the land belonging to respondent No.3. A part of the property was purchased by the petitioner when respondent No.3 sold under a sale deed, dated 26.11.1977. The present dispute relates to the leased land in an extent of 2954 square meters towards East of the site purchased by the petitioner. The petitioner applied for permission to construct sheds and after approval of the plan, it constructed sheds along with boundary wall and the land and building are being used for the purpose of College. When respondent No.3 tried to demolish the boundary wall, the petitioner filed O.S.No.398 of 1996 on the file of the District Munsif, Anakapalle seeking mandatory injunction and when the said suit was dismissed on 10.02.1997, A.S.No.247 of 2004 was filed before the learned X Additional District & Sessions Judge, Anakapalle and the said appeal was partly allowed. The petitioner submitted an application on 09.06.2009 to respondent No.3 seeking extension of lease for a period of 50 years, since it has been running an educational institution. The Municipal Council also recommended the case of the petitioner for renewal of lease by passing a Resolution No.174, dated 24.08.2010, and forwarded the same to the Government for its approval. However, the Director, Municipal Administration rejected the proposal *vide* Memo

No.16056/2011/N1, dated 22.02.2012, and directed respondent No.3 to take further action. Accordingly, respondent No.3 issued notice in ROC No.7585/85/2, dated nil.02.2012, informing the petitioner to handover the leased site within a period of 30 days. Challenging the said notice, the present writ petition was filed.

A counter-affidavit is filed by respondent No.3 stating that as per the terms of the lease, the petitioner has to use the land for the purpose of playground to the women's college, but the petitioner constructed a compound wall and some sheds without approval from the Municipality. Apart from constructing the compound wall, the petitioner encroached into plot Nos.284, 286 and proposed road sites in plot Nos.285 and 287 of Nidanamdoddi Town Planning Scheme, which is adjoining the leased site. After identifying the encroachment, the Municipality removed the compound wall constructed around the encroached site. In those circumstances, the petitioner filed the civil suit. The lease period expired by 15.11.2005 and the petitioner applied for extension of lease period for a further period of 50 years. When a resolution was passed by the Municipal Council recommending for extension, the same was rejected by the Director, Municipal Administration in Memo No.16056/2011-N1, dated 22.02.2012, directing respondent No.3 to take action in accordance with Government Memo, dated 17.11.2009, which was based on the orders of this Court in W.P.No.6354 of 2009. Hence, the impugned notice was issued to the petitioner.

As could be seen from the above averments, the petitioner did not challenge the proceedings, dated 22.02.2012, issued by the Director, Municipal Administration rejecting the proposal, but challenged only the consequential notice issued by respondent No.3.

Be that as it may, since the petitioner has been utilising the land for the purpose of playground to the Women's College, whether the ratio laid down by this Court in W.P.No.6354 of 2009 and the guidelines issued by the Government in Memo, dated 17.11.2009, are applicable to the case of the petitioner have to be examined by respondent No.3 and appropriate decision has to be taken by respondent Nos.2 and 3. It is also clear from the record that the lease in favour of the petitioner expired way back on 15.11.2005.

In the circumstances, the writ petition is disposed of giving liberty to the petitioner to submit representation to respondent Nos.2 and 3, who, in turn are directed to consider the same keeping in view the utilisation of the leased area and pass appropriate orders thereon within a period of three months from the date of receipt of such representation. The petitioner is given one month time for submitting the representation. Till such time, the possession of the petitioner in respect of the leased land shall not be interfered with.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO,J

Dt:08.11.2016

kdl

