

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 10056 of 2005

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in not allotting house site pattas in Sy.No.275, Adivivaram Village, Visakhapatnam, in spite of resolution No.309, dated 19.01.1994 of Sri Varahalaxmi Narasimha Swamy Devasthanam, Smhachalam, and Proc.No.C1/7751/92, dated 20.01.1994 in favour of the petitioner's society, as illegal and arbitrary; and consequently direct the respondents to grant house site pattas in favour of the petitioner's society forthwith.

2) The petitioner society consists of 180 Railway employees as its members belonging to SC, ST & BC community, Visakhapatnam. Since they do not possess any houses, they made a representation to the authorities in the year 1987 requesting them to grant house sites in Sy.No.275 of Adivivaram Village, on payment of market value. The said request was accepted by the committee of Sri Varaha Lakshmi Narasimha Swamy Devasthanam, Smhachalam and placed the same before the Trust Board. Vide resolution No.309, dated 19.01.1994, the Trust Board resolved to obtain the permission of the Commissioner, Endowments Department, Hyderabad, for allotment of house sites to the members of the petitioner society. The inaction of the respondents in not

granting house site pattas is subject matter of challenge in the present writ petition.

3) Learned counsel for the petitioner submits that though they made a representation on 20.11.2002 to the Commissioner of Endowments, disclosing all the factual aspects, till date no order has been passed on the said representation. Hence, seeks a direction either to consider the representation of the petitioner or to allot house sites.

4) Counters came to be filed by the respondents disputing the averments made in the affidavit filed in support of the writ petition. Insofar as the counter filed by respondent Nos.4 and 5 is concerned, it is stated that the respondents have no power to allot house site pattas in favour of the members of the society in respect of the land belonging to Devasthanam. It is said that there is a procedure prescribed for alienation of immovable property belonging to religious institutions and that no land can be allotted contrary to the same. It is further stated that the allegation that the house committee has recommended the society of the petitioner and other societies for grant of house site pattas and they are pending with the authorities is denied.

5) Similarly respondent No.3 to whom the representation was made by the petitioner society also filed his counter disputing the averments made in the affidavit filed in support of the writ petition. It is said that, the request of the petitioner society was placed before the Trust Board vide resolution No.131, dated

17.10.2003, but the Trust Board rejected the said application. It is further stated that the order rejecting the request of the petitioner society was communicated to the President of the petitioner society vide letter No.C9/ 167/ 2003, dated 31.01.2004. It is further stated in the counter that in W.P.M.P.No.15055 of 2005 in W.P.No.11812 of 2005, dated 0.7.06.2005, this Court imposed general ban on allotment of lands relating to Charitable and Religious Institutions as house sites. Hence, prayed to dismiss the writ petition.

6) In view of the fact that the request of the petitioner society for grant of house sites to its members was rejected by passing a speaking order and having regard to the order of this Court in W.P.No.11812 of 2005, this Court is of the view that there cannot be any direction to the respondents to provide house sites. Hence, the Writ Petition is dismissed. However, it is always open to the petitioner society to avail the remedy, if any, available under law.

7) There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

02.08.2017
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