

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.13152 OF 2017

ORDER:

The subject matter of the writ petition is an extent of Ac.0-03 cents of Medinaraopalem Village, Denduluru Mandal, West Godavari District.

The petitioners challenge the order of 3rd respondent dated 22.03.2017 in M.C.No.5 of 2015 as illegal, without jurisdiction and arbitrary.

Heard Mr.K.Chidambaram for petitioners, Mr.T.Ranga Rao for respondent No.4 and the Assistant Government Pleader for Revenue.

The 3rd respondent framed the following issues for decision in M.C.No.5 of 2015:

1. Whether the old church and the site covered by the old church admeasuring an extent of Ac.0-03 cents is a private property of late P.Yohan and his family members who are petitioners in writ petitions or it is public property belonging to villagers?
2. Whether there is peace and tranquility in the village and whether there is need for continuing U/sec.145 Cr.P.C proceedings issued by the then Executive Magistrate, Denduluru Mandal?

On point No.1, the finding recorded reads thus:

“Accordingly issue No.1 is decided to the effect that the site covered by old church admeasuring an extent of Ac.0-03 cents is the property donated by Kshatriya family several years back and Sri Perumallapalli Yohan has

purchased only Ac.0-19 cents 22 Sq.yrds., as seen from his title deeds and the disputed church is built with donations advanced by the villagers. The family members of P.Yohan are exercising their right of ingress and egress to their property from two feet width passage on the northern side of the church. Accordingly the issue No.1 is held”.

Point No.2 is answered as follows:

“As far as issue No.2 is concerned during the enquiry and also during my personal visit to the Medinaraopalem Village I observe that the Law and Order in the village is normal and the entire atmosphere is quite normal and as such there is no need to continue U/sec.145 Cr.P.C. Proceedings issued by my learned predecessor and accordingly U/sec.145 Cr.P.C. proceedings are withdrawn. Accordingly point No.2 is held”.

Now the challenge against the order impugned in the writ petition is that notwithstanding the above findings which are substantially in favour of petitioners, the following directions have been issued:

“In the result, after following procedure established by law and due process of law and after giving utmost importance to all the aspects of the matter including giving ample opportunities to the rival parties and also the villagers at large, in my considered opinion I hold that the disputed site of Ac.0.03 cents with old church is not private property of Perumallapalli Yohan or his family members but it is a public property donated by one Kshatriya Family as far as site of Ac.0-03 cents covered by the Church is concerned and also the church itself is constructed with the money advanced by the villagers by way of donations long time back. During the life time of Perumallapalli Yohan he is pastor of the Church, and as per willing of all the church members after of Yohan his eldest son Perumallapalli Jona is the pastor and he performed

prayers in the church and the villagers are attending prayers in church.

In view of the above Madiri Prema Leela and other who are petitioners in W.P.No.21958 /2015 and their men and followers are hereby directed not to interfere with the function of the church situated in Ac.0.03 cents in Medinaraopalem Village of Denduluru Mandal. Sri Perumallapalli Jona is hereby allowed to perform prayers in the church in the capacity of the pastor and villagers in the church constructed in Ac.0-03 cents which was donated by the Khastriya family.

Sri Perumallapalli Jona is hereby directed to maintain peaceful atmosphere at the time of offering the prayers in the church. Any deviation in this regard suitable action will be taken as per the Rules and Acts are in vogue.

I am satisfied with the peaceful atmosphere prevailing in the village as far as law and order is concerned U/sec.145 Cr.P.C proceedings issued previously are withdrawn and the church with site is handed over to the village elders.

The Village Revenue Officer, Medinaraopalem is hereby directed to handover the church situated in Ac.0.03 cents of Medinaraopalem village in the presence of to the concerned people who organizing of the church under proper acknowledgement from organizers and send the same to this office for record".

The challenge of petitioners is not resisted or opposed by the counsel appearing for the respondents. On the other hand, Mr.Ranga Rao submits that his client is equally aggrieved by the findings recorded by the 3rd respondent. The Assistant Government Pleader admits that once a finding is recorded that a case for exercising the jurisdiction under Section 145 of the Code of Criminal Procedure is not made out, the 3rd respondent ought not to have considered the issue further, much less recorded the findings excerpted above.

Having regard to the above stand, learned counsel consent to ordering the writ petition as follows:

“The order impugned in the writ petition is set aside. The contesting parties viz., the petitioners and 4th respondent are given liberty to avail remedies in a proper forum or Court in accordance with law vis-à-vis the subject matter of the writ petition”.

The writ petition is, accordingly ordered as indicated above. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, stand closed.

06th June, 2017

Lrkm



S.V.BHATT, J