HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.12908 of 2009

ORDER:

The present Writ Petition came to be filed seeking issuance of Writ of Mandamus directing the respondents to implement the orders of the 1st respondent dated 20.09.2003 and register the sale of the property bearing house No.12-10/805/1, 2 and 3 of Beedala BAsti, Secunderabad admeasuring 107 sq. yards in favour of the petitioner.

2) The facts in issue are as under :-

The second respondent herein, who is Executive Officer of Sri Veerabhadra Swamy Temple, Kuravi being the owner of the subject property, intends to sell away the house bearing No.12-10/805/1, 805/2 and 805/3 in an area of 107.43 sq. yards in Beedhal BAsti, Seethaphalmandi, Secunderabad, in public auction as no income was derived from the said property. Accordingly, the Executive Officer, made a publication on 13.11.1997 stating that the auction of the house will be held on 09.12.1997 at 2.30 p.m. in the office of Commissioner of Endowments Department. The petitioner along with others participated in the said auction, after depositing Rs.10,000/-. As the petitioner was the highest bidder at Rs.2,050/- per sq. yard, he deposited 1/3rd of the total bid amount. The Executive Officer submitted the proposals for confirmation to the Commissioner as required under Section 80 of the Act, who in turn confirmed the auction on 20.09.2003. As per the condition No.6 of the auction, the higher bidder has to pay balance of 2/3rd of the total bid, within 15 days of confirmation and obtain a registered sale deed from the Executive Officer, failing which the temple can forfeit 1/3rd amount deposited and re-auction the property. It is said that though the petitioner was supposed to deposit the entire amount within a period of 15 days, the petitioner took nearly 10 years, from the date of auction, to deposit the amount of Rs.2,50,976/-. The last payment was on 29.06.2007. Initially a notice was issued on 25.04.2009, to which the petitioner replied on 07.05.2009 demanding registration of the property. However, on 25.04.2009, the commissioner, Endowments issued a show-cause notice calling upon the petitioner as to why the confirmation of the sale made earlier should not be cancelled and also why 1/3rd of the bid amount deposited by the petitioner should not be forfeited. The petitioner gave a reply stating that since the amount has been paid and accepted and since he claims to have spent substantial amount for improving the property and as possession was aleready delivered, he seeks registration of the same. However, the request of the petitioner was rejected on 27.06.2009 by the Commissioner, Endowments and instructed the Executive Officer to return the payments made. The record also discloses initiation of proceedings against the Executive Officer for receiving the money after the expiry of 15 days. Without challenging the order passed on

27.06.2009, the petitioner herein preferred the writ petition challenging the order dated 20.09.2003.

3) By an order dated 01.07.2009, this Court ordered status quo to be maintained until further orders.

4) A counter came to be filed, disputing the averments made in the affidavit filed in support of the writ petition. It is stated that the relief, which is sought for, got merged with subsequent proceedings issued in the year 2009 and as such the relief as sought for, cannot be granted. In any event, it is submitted that since the payment was made contrary to the agreement, the petitioner is not entitled for registration of the property in his name.

5) As seen from the record, auction of the property was held on 09.12.1997 at 2.30 p.m. in the office of the Commissioner of endowments Department. The petitioner was highest bidder, quoting at Rs.2,050/- per sq. yard. As per the terms and conditions of the auction, the highest bidder has to pay 1/3rd of the bid amount immediately after the auction, and balance of 2/3rd shall be paid within 15 days of the confirmation of the sale by the Commissioner of the Endowments. The confirmation of the sale was made on 20.09.2003. Though the petitioner failed to pay the amount within 15 days from the date of confirmation of the sale by the Commissioner, the Executive Officer accepted the amount till the year 2007, which

lead to passing of the order in the year 2009, cancelling the request for registration and also initiating action against the Executive Officer. It is to be noted that the impugned proceedings, which are challenged in this Writ Petition, are dated 20.09.2003, wherein the Commissioner of Endowments enquired about the valuation of the property and confirmed the sale. Thereafter in the year 2009 the said confirmation was cancelled as the petitioner failed to fulfill the conditions of the auction by depositing 2/3rd of the amount within the period of 15 days from the date of confirmation. Strangely, the petitioner did not challenge the order canceling the auction, but however sought for implementation of the confirmation made by the Commissioner. It is to be noted that the order passed in the year 2003 got merged with the order passed in the year 2009 and hence, the petitioner ought to have questioned the subsequent proceedings as well. Insofar as cancellation of the order auction made in the month of June 2009 is concerned, the same can be passed after observing principles of natural justice viz., giving notice inviting the objections and after considering the same, an order came to be passed. Apart from that, it is also to be noticed that auction was held in the year 1997 and confirmation of the same was made in the year 2003. The confirmation of the said auction was communicated to the petitioner. As per the terms of the agreement, the petitioner has to pay the amount within 15 days from the date of confirmation. No reasons are forthcoming as to why the petitioner failed to pay the amount within 15 days. Without paying the amount as contemplated under the terms of the agreement, the petitioner paid the amount in instalments till the year 2007. It may be true that the Executive Officer has accepted the money but since collection of the money itself was illegal, the authorities have taken action against him. Though the Executive Officer has collected the amount that by itself does not give a right to the petitioner to seek registration of the property, which receipt of payment is contrary to the terms of the auction. The averments in paragraph 5 of the petition affidavit that the possession of the house was delivered to the petitioner and he improved the house by spending Rs.2,00,000/- is disputed by the Commissioner of the Endowments Department in his counter dated 14.05.2010.

6) Having regard to the circumstances stated above, the request of the petitioner seeking registration of the property at this point of time i.e., nearly 20 years from the date of auction, cannot be accepted. Hence, the Writ petition is liable to be dismissed.

7) Accordingly, the Writ Petition is dismissed. However, the authorities are directed to conduct the auction of the temple land if they so desire. The amount deposited by the petitioner, after confirmation of the sale, shall be returned to the petitioner along with

interest at the rate of 6.5 % p.a. No costs. Miscellaneous Petitions pending if any in this Writ Petition, shall stand closed.

C. PRAVEEN KUMAR, J

Dt: 18.04.2017
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