

THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.16862 OF 2005

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking to declare the action of the respondents in seeking to dispossess the petitioners and other members of the 5th respondent Society from land admeasuring 500 square yards in survey No.220 of Yenugonda Village, Mahabubnagar District (hereinafter referred to as 'subject land'), under the guise of allotment of alternative site in favour of 5th respondent, as illegal and arbitrary.

The averments made in the affidavit filed in support of the writ petition would show that the petitioners herein are the members of the 5th respondent-Society, which was registered under A.P. (T.A.) Public Societies Registration Act. The subject land was allotted in favour of the 5th respondent Society in pursuance to the proceedings dated 18.10.2001 on the file of the second respondent. Under panchanama dated 24.11.2001, the 4th respondent handed over the possession of the land in favour of the 5th respondent for construction of a Girijana Bhavan. After taking possession of the land, a Girijana Bhavan was constructed after obtaining due permission from Mahabubnagar Municipality. While so, at the instance of the first respondent, who sought for return of the subject land on providing alternative site elsewhere, the 6th respondent, who is the President of the Society, gave consent for the same, against the interests of the members of the Society. Thus, the action of the respondents in seeking to dispossess the petitioners and other members of the

5th respondent-Society from the subject land is questioned in this writ petition.

Heard the learned counsel for the petitioners, learned Government Pleader for Revenue and Sri K.Venkatesh Gupta, learned counsel for R-7.

Learned counsel for the petitioners mainly submits that having handed over possession of the subject property, the action of the respondents in trying to dispossess the petitioners is illegal and improper. It is further contended in the counter filed by the District Collector on 11.06.2008 that the land was allotted to the 5th respondent Society and the subject land was never allotted to DIET.

The same is opposed by the learned Government Pleader as well as by the implead petitioners i.e. respondent Nos.7 and 8 stating that in view of the earlier orders passed by this Court in W.P.No.23549 of 2004, the petitioners are not entitled for any relief.

In order to appreciate the rival contentions, it would be just and proper to extract relevant portion of the counter affidavit filed by the District Collector dated 11.06.2008 i.e. after vacating the interim order by this Court in W.P.No.23549 of 2004 dated 09.02.2005, which reads as under:

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6. It is further submitted that an extent of Ac.9-34 Gts. in Sy.No.220 of Yenugonda (V g) has been allotted to DIET College, Mahabubnagar which is more than sufficient to meet their requirement. The District ST Seva Sangham is already in possession of 500 Sq. Yards in Sy No.220 of Yenugonda (V g) which was not allotted to DIET College at any point of time and the DIET College can have no claim over this land. The

advance possession of the land was already given to ST Seva Sangham during the Year 2001 itself as it is free from encroachment and ST Seva Sangham Mahabubnagar at present have constructed the temporary building in the above land and are using this building for Social activities. While explaining the above facts proposals have been submitted to the Government School Education, AP Hyderabad vide Collector, Mahabubnagar Lr. No.E1/5002/2000, dt.1.06.2008 with a request to spare the land in Sy No.220 extent 500 Sq-Yards which is next to DIET College, Mahabubnagar in favour of ST Seva Sangham. Hence proposal of alternative site for Sangham is not feasible and practical. Soon after receipt of the orders from the Government action as deemed fit will be taken in the matter.”

From a reading of the counter filed by the District Collector, it is clear that an extent of Acs.9-34 guntas in survey No.220 of Yenugonda (V) was allotted to DIET and about 500 Sq.Yards of land was allotted to the 5th respondent in the very same survey number. It was categorically stated that the said land of 500 Sq.Yards was never allotted to DIET and the DIET had no claim over the said land. It is further stated that advance possession of the land was already given to the 5th respondent during the year 2001 itself and the 5th respondent has constructed temporary building in the said land and using the same for its activities. It appears that proposals were submitted to the Government School Education with a request to spare the land in survey No.220 to the extent of 500 Sq.Yards, which is next to DIET College, in favour of the 5th respondent. No order appears to have been passed by the Government in respect of the proposals sent by the Collector in the year 2008.

However, during the course of arguments, the learned GP would submit that if the petitioners are not in possession of the property and the land which the implead petitioners are claiming to be part of the land allotted to the DIET College, the proposal for providing alternative site to the writ petitioners would be considered. But, the averments in the counter affidavit filed by the District Collector run contrary to the arguments advanced by the learned GP.

Be that as it may. If no order is passed by the government pursuant to the proposals sent by the District Collector, the authorities shall follow due process of law either in taking steps for dispossessing the petitioners or in providing alternative land, if any, to the petitioners. Till such time, petitioners shall not be dispossessed from the subject land, if they are in possession of the property. If any order has already been passed by the Government, the same shall be communicated to the petitioners forthwith.

Accordingly, the Writ Petition is disposed of.

Consequently, miscellaneous petitions pending in this writ petition, if any, shall stand closed. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

12.09.2017
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