

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

WRIT PETITION NO.12379 OF 2005

ORDER: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

The proceedings under challenge in this Writ Petition is G.O.Ms.No.526, Municipal Administration and Urban Development department dated 10.12.2004 whereby the request of Sri N.V.V.Krishna, S/o. Lat Sri N.V.V.Saibaba, for assignment of municipal land, free of cost, of an extent of 2006 square yards in T.S.No.511/4 of Srinivasarao Thota, Guntur for construction of temple, was rejected. It was also observed that the issue of maintenance of the temple would be examined separately in consultation with the Commissioner, Endowments Department and appropriate action would be taken as per law.

The impugned G.O. records that the subject site proposed for assignment was part of one acre 16,553 square feet of municipal land acquired by the Guntur Municipality in the year 1968 for the purpose of a park; a part had already been developed in the above site, except in the portion where the structures of the temple were existing; the acquired land had to be used for the purpose for which it was acquired with public money; in the light of the judgment of the Supreme Court, in **State of Kerala & Ors. v. M.Bhaskaran Pillai & Anr.**¹ (Civil Appeal No.3628 of 1997), acquisition of land for a public purpose would result in the land being vested in the State free from all encumbrances; after the public purpose was achieved, the rest of the land could be used for

¹ AIR 1997 SC 2703

any other public purpose; and, if there is no other public purpose for which the land is needed, then, instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose as envisaged in the Directive Principles of the State Policy.

The subject lands were acquired in the year 1968. While a proposal to assign these lands was under consideration earlier, the Government appears to have changed its mind, and decided to either utilise the subject land for the public purposes for which it was acquired i.e., for a park or for any other public purpose. As it is open to the Government to do so, G.O.Ms.No.526 dated 10.12.2004 does not suffer from any illegality necessitating our interference in writ proceedings under Article 226 of the Constitution of India.

The Writ Petition fails and is accordingly dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

21st June 2017
RRB