

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.14789 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner for the following relief:

“to declare the action of the Respondent in issuing the notice U/s.452(1) and 461(1) of GHMC Act, 1955 directing the petitioner not to proceed with the construction of the Parsonage building in its compound in view of the orders passed in the batch of Writ Appeals in Nos.696 of 2016, etc. arising out of the order in W.P.No.5877 of 2003 dated 02.06.2016, as illegal, arbitrary and unreasonable and to issue a consequential direction to the respondent to consider the case of the petitioner for sanctioning approval for construction of Parsonage building in its compound, situated at 40-814, Stanton Compound, Kurnool, without reference to the orders in batch of Writ Appeals in W.A.Nos.696 of 2016.”

The petitioner is a Church and was established in the year 1959. The American Baptist Foreign Mission Society has allotted an extent of Acs.11.76 cents to Emile Coles Memorial School for Girls (ECM school), Kurnool, and also an extent of 56 ½ cents to the petitioner Church long ago. A major extent of the land belonging to ECM School was sold away by a Society, by name, Polamula Baptist Sanghamula Samajam to various private persons, and those private persons constructed houses by obtaining building permissions. Thereafter, some of the employees of the School approached this Court and filed WP No.5877 of 2003 contending that the land belonging to the ECM School was encroached. The private persons, who constructed houses, were also made as parties in the said writ petition. The petitioner was not a party to the said writ petition. The said writ petition was allowed by this Court and the structures erected by the private persons were directed to be demolished. The private persons carried the matter in W.A.No.696 of

2016 and batch. A Division Bench of this Court granted stay of the order passed in WP No.5877 of 2003.

Since the house of the Pastor of the petitioner Church, which is situated in the compound of the Church, is in dilapidated condition, the petitioner intends to reconstruct the same and initiated certain ground work for reconstruction of the same. At that stage, the respondent issued notices under Sections 452(1) and 461(1) of the Greater Hyderabad Municipal Corporation Act, stating that this Court has directed status quo to be maintained in respect of the subject land in WA Nos.696 of 2016 and Batch, and hence, directed the petitioner to stop the proposed construction since it amounts to violation of the orders of this Court, otherwise, they will remove the structures. Hence, this writ petition.

Heard and perused the material available on record.

The main grievance of the petitioner is that though the petitioner brought to the notice of the respondent that the land allotted by the American Baptist Foreign Mission Society to the petitioner is different from the land allotted to the ECM School, and that the petitioner is not made as a party to the writ petition, against which the writ appeal is pending, the respondent is not considering its request and not permitting the petitioner to proceed with the construction.

Considering the circumstances of the case and the grievance of the petitioner, this Court is inclined to pass the following order:

“If the respondent is of the view that the order of the Division Bench in WA No.696 of 2016 and batch will stand in the way of the respondent in granting permission to the petitioner for construction of the building, the respondent is

directed to conduct a joint survey in the presence of the petitioner after issuance of notice, and if the survey discloses that the property in which the petitioner wants to construct building will not come within the purview of the orders of the Division Bench, the respondent is directed to grant permission to the petitioner, if the application of the petitioner is in accordance with law.”

With the above directions, the Writ Petition is disposed of. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

July 18, 2017
KTL



RAJA ELANGO, J