

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.9438 of 2009

ORDER:

This writ petition, under Article 226 of the Constitution of India, by the petitioners is filed against the Department of Endowments and the third respondent, Sri Gavi Mutt Samsthanam, questioning the inaction of the third respondent in not registering the balance extent of land of Ac.3-22 cents out of Ac.20-00 cents in Survey Nos.473-A1 and A2 situated at Uravakonda Village and Mandal, Anantapur District, in terms of G.O.Ms.No.1348, Revenue (Endowments. II) Department, dated 02.07.2001, of the first respondent and the consequential proceedings of second respondent, the Commissioner of Endowments, in Rc.No.M3/58238/99 dated 12.07.2001, as bad, illegal, arbitrary, discriminatory, and opposed to Articles 14 and 21 of the Constitution of India.

2. I have heard submissions of *Sri V.Venugopala Rao*, learned counsel for the petitioners, and of learned Government Pleader for Endowments and of *Sri A.Sreekanth Reddy*, learned Standing Counsel for the third respondent-Mutt. I have perused the material record.

3. From the pleadings of the parties filed before this court and the submissions now made, the following facts emerge for consideration.

The first petitioner-Taluk Veera Shaiva Samajam is a registered Samajam consisting of more than 500 members.

The members of the first petitioner-Samajam propagate Dharmas of Veera Shaivas and are followers of Sri Jagajyothi Basaveshwarudu, who was a popular prophet and social reformer during the 12th century. The first petitioner-Samajam undertakes religious and public welfare activities. Therefore, the third respondent-Mutt was inclined to provide accommodation for the activities of the first petitioner-Samajam and its members; and, accordingly the first petitioner-Samajam was associated with the third respondent-Mutt. Behind the building of the third respondent-Mutt, there was a huge land belonging to the third respondent-Mutt in an extent of Ac.45-15 cents in Survey Nos.473-A1 and A2. The third respondent-Mutt proposed to sell Ac.20-00 cents out of the said land in favour of the first petitioner-Samajam. The first petitioner-Samajam offered to pay consideration @ Rs.1,50,000/- per acre to consider the feasibility of such private sale of the land of the third respondent-Mutt by private negotiations. A three member committee was appointed. The Committee, after inspection and due consideration, recommended for sale of Ac.20-00 cents of land of the third respondent-Mutt to the first petitioner-Samajam. On consideration of the recommendation of the Committee and the proposal for sale of Ac.20-00 cents of land out of Ac.45-11 cents of land in Survey Nos.473-A1 & A2 of the third respondent-Mutt, the Government, having called for objections and suggestions, if any, of the interested parties, examined the issue as per the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, (for short, "Act 30/1987") and accorded permission for sale of the said lands and accordingly issued

G.O.Ms.No.57, dated 19.05.2000. Thereafter, G.O.Rt.No.1348, Revenue (Endowments.II) Department, dated 02.07.2001, was issued according permission to the Assistant Commissioner and Manager of the third respondent-Mutt to sell the land admeasuring Ac.20-00 cents in the said survey numbers by way of private negotiations in favour of the first petitioner-Samajam @ Rs.2,35,000/- per acre. Pursuant thereto, the Commissioner of Endowments, A.P., Hyderabad, issued proceedings, dated 12.07.2001, referring to the Government orders, for execution and registration of sale deeds in respect of the said land in favour of the first petitioner-Samajam, subject to the conditions stipulated in the proceedings, dated 12.07.2001. Though the first petitioner-Samajam did not pay the entire consideration at once and obtain the sale deed for the entire extent of Ac.20-00 cents, it is not in dispute and it is also admitted that the first petitioner paid Rs.23,50,000/-, Rs.9,82,300/- and Rs.6,11,000/- in three spells to the third respondent-Mutt and obtained three registered sale deeds dated 24.05.2002, 03.03.2005 and 11.03.2005 for the extents of Ac.10-00, Ac.4-18 cents and Ac.2-60 cents respectively. Thus, as per the private negotiations, Government Orders, and subsequent proceedings, the third respondent-Mutt through the authorized representative executed sale deeds in favour of the first petitioner-Samajam for a total extent of Ac.16-78 cents. However, the first petitioner-Samajam did not obtain a sale deed for the balance land of an extent of Ac.3-22 cents. The subject matter in the present writ petition is the first petitioner's entitlement for obtaining a sale deed in respect of the said balance Ac.3-22 cents from the third respondent-Mutt.

4. In this setting of facts, which are undisputed and admitted, the case of the petitioner and the submissions made on its behalf are as follows:

The sale in favour of the first petitioner-Samajam for the entire extent of Ac.20-00 cents of land was finalized by the Government Orders. And, acting on the terms and conditions of the said Orders, sale deeds were already executed except for an extent of Ac.3-22 cents of land. Despite repeated representations, the sale deed for the balance extent of land was not executed. The terms of Government Orders are binding on both the parties. The sale transaction is only to be processed for the balance extent of land i.e., Ac.3-22 cents. The inaction of the third respondent in executing a sale deed for the balance extent of land is wholly unjustified. Presuming that there are certain circulars subsequent to the issuance of the Government Orders postulating certain terms contrary to the terms and conditions of the said GO, yet the said circulars cannot be applied to the present case of the petitioners as the GO has become final and binding. The first petitioner-Samajam, its devotees and members are a part and parcel of the third respondent-Mutt and its establishment. Therefore, the petitioners are entitled to the relief claimed in the writ petition.

5. Per contra, the case of the Department of Endowments and third respondent-Mutt and the submissions made on their behalf, in brief, are as follows:

The first petitioner-Samajam obtained sale deeds in three spells for three distinct extents of lands, by paying considerations in piece-meal basis. Later, the first petitioner-Samajam kept quiet by not paying the balance of sale consideration in respect of the remaining extent of land and failed to obtain a registered sale deed. The predecessor Assistant Commissioner and Manager of the third respondent Mutt, who in-fact filed the counter before this court, by a letter, dated 07.07.2009, requested the Secretary of the first petitioner-Samajam to pay the entire sale consideration at once and obtain a registered sale deed for the entire extent of Ac.20-00 cents as per the terms and conditions of the GO within 15 days of the GO, but the first petitioner-Samajam made part payments and failed to pay the entire consideration. The Government fixed Rs.2,35,000/- as consideration per acre taking into consideration the market values and registration values prevailing at that time. The GO issued by the Government does not mention any reasons as contemplated under the provisions of the Act 30 of 1987. Since the first petitioner-Samajam had not paid the consideration in lump sum and not obtained the sale deed for the entire extent at one time, the first petitioner-Samajam is not entitled to any relief in this writ petition. The writ petition filed nine years after the issuance of GO is liable for dismissal. The present cost of the land is Rs.3,53,100/- per acre as per the certificate of the Tahsildar concerned. If the said land is put to public auction and is sold, it may get more than Rs.50 lakhs per acre as it is in prime locality, that is, near bus stand and commercial areas of Uravakonda. The Commissioner of Endowments Department by a Circular in RS.No.N1/358/1996, dated 06.04.2009, directed not to accept the

proposal for execution of registered sale deed in favour of purchasers of temple lands, if they failed to pay entire sale proceeds within 90 days from the date of communication of confirmation orders. The request of the first petitioner Samajam for execution of registered sale deed for the remaining extent of Ac.3-22 cents of land after lapse of nine years is unreasonable and contrary to the provisions of Act 30 of 1987. Hence, the writ petition is liable to be dismissed.

6. At the hearing, the learned counsel for the petitioners would further submit that the Circular, dated 06.04.2009, is not communicated to the petitioner-Samajam calling upon it to pay the entire sale proceeds and complete the sale transaction within 90 days and that in any view of the matter as the sale transaction is finalized by the GO, the circular is not helpful to the third respondent-Mutt to advance its defence. The learned counsel for the petitioners also submitted that in view of the escalation of prices, the first petitioner-Samajam is prepared to pay the present market value as stated in the counter of the third respondent-Mutt @ Rs.3,53,100/- per acre and, therefore, appropriate directions may be granted.

7. Learned Government Pleader for Endowments and learned Standing Counsel for the third respondent-Mutt in reply submitted that in view of the ban imposed by the Government in respect of sale of endowed lands and also the provision of Section 80 of Act 30 of 1987, the endowed lands cannot be sold by private negotiations and that a Division Bench of this Court passed

interim orders in a writ petition directing that endowed lands shall not be sold.

8. I have given detailed and thoughtful consideration to the facts and submissions. I have carefully perused the material record.

9. In the light of the facts and the submissions, which are noted, the issue that falls for consideration is:

“Whether the first petitioner-Samajam is entitled to obtain a registered sale deed in respect of Ac.3-22 cents of land from the third respondent-Mutt as per the terms and conditions of G.O.Ms.No.57 dated 19.05.2000 and G.O.Rt.No.1348 dated 02.07.2001?”

10. Since all the facts and the submissions of both the sides already noted, in detail, there is no need to re-state the same.

11. It is undisputed that the Government first issued G.O.Ms.No.57 dated 19.05.2000 according permission for sale of the entire extent of Ac.20-00 cents by the third respondent-Mutt in favour of the first petitioner-Samajam. Following the said GO, G.O.Rt.No.1348, dated 02.07.2001 was subsequently issued according permission to the Assistant Commissioner and Manager of the third respondent-Mutt to sell the entire extent of land. Pursuant thereto, the Deputy Commissioner by further proceedings, dated 12.07.2001, stipulated certain conditions for sale of land as per the terms and conditions of the GOs. After inspection of the lands, the three member committee fixed the sale consideration having regard to the certificates furnished by the MRO, Uravakonda, and the basic value of the land as per the

entries in the register maintained by the sub-registrar's office concerned. For the reasons best known to it, the first petitioner-Samajam did not promptly pay the consideration in respect of the entire extent of land and failed to obtain a registered sale deed at once; but first petitioner-Samajam made part payments in the years 2002, 2005 and 2005, as already noted in the introductory paragraph of this order, and obtained three sale deeds for the extent of Ac.16-78 cents in all and thereafter kept quiet. No reasons, much less valid reasons, are forthcoming for not obtaining the sale deed for the entire extent at once or at least within a reasonable time from the time, the permission was granted for sale of the land. After the permission was accorded, admittedly there is an increase in the market value of the land and even according to the alternative contention advanced before this court, the price of the land, which the first petitioner-Samajam offers to pay is not Rs.2,35,000/- as mentioned in the GO, but Rs.3,53,100/- per acre as per the Certificate of the Tahsildar referred to in the counter of the third respondent-Mutt.

12. Be that as it may, even in the counter that was filed in the year 2010 by the State it was stated *inter alia* that if the property is put to public auction and is sold, it may fetch Rs.50 lakhs per acre considering the location of the property in a prime and commercial locality of Uravakonda. Except stating that despite representations, the third respondent-Mutt did not come forward to execute the sale deed, no such representations are referred to specifically in the writ petition and no copies of such representations are also filed by the first petitioner-Samajam. Further, in the well considered view of this court, at this distance

of time, it is now not possible to enforce the terms of the GO, as admittedly there is escalation of prices of lands including that of the subject land. Virtually the relief being sought is specific performance, which is an equitable relief. Since, the first petitioner-Samajam has kept quiet since 2005 and has failed to offer any valid explanation for the delay, it follows that it is not entitled to the relief sought in the writ petition on the ground of delay and laches. Further, the first petitioner-Samajam cannot be granted the equitable relief in the light of the fact that the 3rd respondent-Mutt is now unwilling to sell the land by private negotiations not only in view of the inordinate delay and abnormal escalation of prices but also in the light of the legal position presently obtaining. On the above analysis, this court finds that there is justification on the part of the third respondent-Mutt in refusing to execute a sale deed for the balance of extent of AC.3-22 cents, which is now a valuable land of the third respondent-Mutt.

13. Viewed thus, this court finds that the contentions of the writ petition are devoid of merit and that the writ petition is liable to be dismissed.

14. In the result, the writ petition is dismissed.

Pending miscellaneous petitions, if any, shall stand closed.

There shall be no order as to costs.

JUSTICE M. SEETHARAMA MURTI

March 13, 2017
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13th March, 2017