

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.41458 of 2017

ORDER:

This Writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief/s:

‘to issue a Writ or Order or Direction more in the nature of Writ of Mandamus declaring the action of the first respondent in not fixing the rate of the land over an extent of Ac.4.00 in S.No.120 of Amaravathi village for payment of the same by the second respondent to the fourth respondent as illegal and arbitrary and consequentially direct the first respondent to fix the rate of the land as Rs.28,35,000/- per acre (which amount is fetched in the public auction by the fourth respondent per acre) towards compensation for the lands at S.No.120 of Amaravathi village and thereafter direct the second respondent to pay the same with interest to the fourth respondent forthwith without any delay and pass such other order or orders...’

2. I have heard the submissions of Sri P.V.S.S.S. Rama Rao, learned counsel appearing for the petitioner, learned Government Pleader for Endowments appearing for the 5th respondent, learned Government Pleader for Social Welfare representing the 2nd respondent, learned Government Pleader for Revenue appearing for the respondents 1 & 3, and of Smt. K. Lalitha, learned counsel representing the 4th respondent. I have perused the material record.

3. The facts which are discernable from the pleadings and submissions made before this Court by the learned counsel for both the sides, in brief, are as follows:

The 4th respondent-Sri Amareswara Swamyvari Devasthanam, Amaravathi, was originally having Ac.8-36 cents of dry land in Sy.No.120 at

Amaravathi village and mandal of Guntur District. Out of the said land, Ac.4.00 cents was requisitioned by the Secretary of the 2nd respondent, i.e., A.P. Social Welfare Residential Educational Institutions Society, Tadepalli, for construction of a residential school for girls along with hostel building. In-fact, initially, the 2nd respondent Society by its letter, dated 07.09.2002, consented to pay the land value as proposed by the District Collector to the endowment department. The officials of the Endowment Department including the then Commissioner of Endowments for whatever reasons decided to part with the said extent of land out of the total extent of land of the 4th respondent Devasthanam for the desired purpose and possession of the said extent of Ac.4.00 cents was handed over in advance by the Executive officer of the said Devasthanam/Temple to the Convenor/Principal, A.P.S.W.R. school/junior College, Achampeta, on 28.11.2002, as per proceedings in Rc.No.A4/12556/2002-Admin, dated 27.11.2002, of the Deputy Commissioner, Endowments Department, Guntur, for construction of the said residential school complex for girls. Thus, possession was delivered even though the market value is not paid to the Devasthanam/institution. However, it was proposed by the then District Collector that the rate of the said Ac.4.00 cents of land would be fixed after conducting open auction of the remaining land of Ac.4.36 cents as the amount that would be fetched for the said land in open auction would give a clear picture of the prevailing market value and that based on that the value of the land given to the complex of the school can be determined/fixed taking into account the features like backside location etcetera. The said proposal was agreed to and an assurance was given at the time of taking advance possession of the said land of an extent of Ac.4.00 cents that the amount would accordingly be paid to the Devasthanam/Temple. The

balance extent of land of Ac.4.36 cents was later auctioned apparently as per the directions of the Commissioner of Endowments/5th respondent and at that auction a price of Rs.28,35,000/- per acre was realised. On that basis, the 4th respondent Devasthanam/Temple is entitled to receive approximately Rs.1,13,40,000/- from the 2nd respondent society from the date of handing over of possession (28.11.2002) with interest thereon. It is shocking to note that the endowed property is parted with without even realising the value of it, for the benefit of the Devasthanam/temple, despite lapse of one and a half decades. Since the said amount, which is legally due and payable to the Devasthanam/Temple is not paid despite such long lapse of time, the present writ petition is filed. It is obvious that all the respondents particularly the then Commissioner, District Collector, Guntur, Secretary of 2nd respondent and other officers representing the official respondents and their successors are responsible for loss which occasioned to the Devasthanam on account of non payment of the amount legally and genuinely due to the Devasthanam/temple.

4. At the hearing, it is stated on behalf of the 2nd respondent Society that the amount due and payable would be paid as early as possible and, therefore, the writ petition may be disposed of with appropriate directions.

5. In the result, the Writ Petition is allowed directing the respondents 1 & 3 to 5 to immediately take steps for fixing the rate of the Ac.4.00 cents of subject land by taking into consideration the land value @ Rs.28,35,000/- per acre and also the interests of the 4th respondent Devasthanam/temple; and, on such fixation of the value of the entire land, the 2nd respondent shall forthwith pay the same to the 4th respondent Devasthanam/Temple with interest @ 24% per annum from the date of taking advance possession, that is, 28.11.2002, till date

of payment. The above said exercise shall be completed within two months from the date of receipt of a copy of this order. It is made clear that on failure in making the payment of the value of the subject land as directed, the subject land shall be redelivered to the 4th respondent-Devasthanam/temple with the constructions thereon without any claim for equities whatsoever. In the event the payment is not made as directed in this order, the Commissioner of Endowments, the Secretary of the 2nd respondent and the District Collector, Guntur, shall take the responsibility and take steps for redelivery of the property.

6. Before parting, it is to be noted that in this writ petition, the manner in which the endowed property of the institution is parted with, is not questioned; and, only the non payment of the value of the land is the subject matter; hence, this Court did not go into the other aspect which is not raised. Therefore, it shall not be treated that by this order, this Court accorded its approval to the manner in which the property of the institution has been dealt with by the concerned. It is to be noted that now-a-days philanthropists and persons of good heart who are willing to make munificent donations/presentations to religious and charitable institutions are hard to find and a system of Corporate Social Responsibility is now in place. Generally properties would be gifted/presented/contributed to the charitable and religious institutions with certain pious and devout objectives and such donors of the properties and their successors in interest expect that the properties would be utilised as per the wishes of the donors. If the Government and its responsible officers deal with such properties in the manner the present property was dealt with, then certainly sentiments of the donors or their successors would be affected and

such instances would distance such philanthropists/persons of good heart from making such munificent contributions.

Pending miscellaneous petitions, if any, in this writ petition shall stand closed. No costs.

M. SEETHARAMA MURTI, J

27.12.2017

Vjl

