IN THE HIGH COURT OF JUDICATURE AT MADRAS
02.11.2018
CORAM
THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.18523 of 2009

A/M. Bathrakaliamman Temple,
Rep by, Thakkar/ Executive Officer,
Mr. K. Parameswaran,
Sirumolasi, Tiruchencode TK,
Namakkal District. .. Petitioner

Versus

1. The Director,
Department of Rural Development,
Government of Tamil Nadu, Chennai - 15.

2. The Commissioner,
Commissionerate of Adi Dravidar Welfare,
Government of Tamil Nadu, Chennai - 5

3. The District Collector,
Namakkal District, Namakkal. .. Respondents

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to deposit the sale consideration to the petitioner with interest and cost for the lands measuring 8.27 acres at S.No. 6, Sirumolasi village, Tiruchengode TK, Namakkal District.

For Petitioner : Mr.C. Kulanthaivel
For Respondents :Mrs.Thangavadana Balakrishnan
Additional Government Pleader

ORDER

The petitioner has filed the above to issue a Writ of Mandamus to direct the 1st respondent to deposit the sale consideration to the petitioner with interest and costs for the lands measuring an extent of 8.27 acres in S.No. 6, Sirumolasi village, Tiruchengode TK, Namakkal District.

2. The case of the petitioner is that the Temple, namely A/M. Bathrakaliamman Temple, represented by its

Thakkar/Executive Officer of Sirumolasi, Tiruchengode Taluk, Namakkal District, which comes under the control of Hindu Religious and Charitable Endowment Department, had originally owned 9.27 acres of land in S.No.6, Sirumolasi Village, Tiruchengode TK, Namakkal District and out of which, 8.27 acres of land had been acquired by the Government of Tamil Nadu to construct "Samathuvapuram". Accordingly, the then Secretary, Tamil Development, Culture and Endowment Department granted permission to sell the land, as per the request of the 2nd respondent dated 01.02.1999, on condition that the sale amount fixed by the Department of Hindu Religious and Charitable Endowment should be deposited in one installment with 12% interest from the date of possession till the date of registration of the sale deed. The sale amount so fixed by the 3rd respondent was Rs.3,72,150/- and the District Administration of Namakkal District granted permission to take the possession of the said lands by the Department of Hindu Religious and Charitable Endowment from the petitioners Temple owned by it from 1999. But, till the date, no amount has been paid by the Tamil Nadu Development Culture and Endowments Department.

3. The petitioner would also contend that the District Adi Dravidar Welfare Officer, Namakkal has sent a communication to the second respondent on 22.9.2005, wherein, he has referred various communications regarding the sale amount, which was still not paid to the petitioner's Temple and also requested the 2nd respondent to sanction the said sale amount under the proper head of accounts. However, there was no development on the part of the 2nd respondent to pay the sale amount to the petitioner's Temple and till date, the amount has not been paid to the petitioner's Temple and even there was no communication from the second respondent. The Assistant Commissioner of Hindu Religious and Charitable Endowments, Salem and has passed an order dated 29.02.2008 and 25.11.2008, stating that the sale amount of Rs.3,72,150/- with interest of 12% from the date of taking possession and also the amount of Rs.5,000/- towards the costs of advertisement, are still due from the concerned department and directed the Thakkar of the petitioner's Temple to approach the District Adi Dravidar Welfare Officer of Namakkal. Inspite of request made on several occasions, by approaching the concerned officers and department of the 2nd respondent, there was no fruitful result forth coming.

4. There was no other option, the petitioner's temple issued a legal notice dated 23.3.2009 through the Takkar to the first and third respondent and other officers, after receipt of the said legal notice, the second respondent had informed the first respondent vide proceedings in Na.Ka.No.A1/ 5700/08 dated 03.4.2009 requesting the 1st respondent to take further action and communicate the same to the petitioner. He has also informed

the petitioner herein vide proceedings A1/5700/08 dated 03.4.2009 that the first respondent has dealt with the Samathuvapuram project and requested them to sanction the amount to the petitioner's Temple after getting approval from the third respondent herein. The petitioner was also requested to contact the first respondent directly. Inspite of above communications and after having approached the 1st respondent on various occasions, no amount was sanctioned. Since, the petitioner's Temple has no other source of income for its maintenance, except the income derived from the lands owned by the petitioner, and the lands were taken over for construction of Samathuvapuram and the amounts fixed for the sale of the said lands were also not paid to the petitioner for the past ten years, the petitioner's Temple is in a deplorable condition, without any maintenance such as to meet the day to day poojas, salaries to persons performing poojas and payment of electricity bills and yearly festivals are badly affected due to lack of income from the said lands.

5. The petitioner's Temple was not even paid the money and also the lands were taken and there was no donation or subsidy to the petitioner's temple and the devotees of the Temple are demanding for proper maintenance and performance of daily poojas for the said temple. Though the Department took possession of the petitioner Temple's lands and utilized the same for the purpose for which they were taken over, but the Department failed to deposit the sale proceeds till date. The Hindu Religious and Charitable Endowment Department is also not taking much interest in pressurizing the other Departments, which being the Government Departments and the only source of income for the petitioner's temple was the amount paid by the devotees. Hence, the lands were taken over by the respondents and the petitioner's temple is in dire state. Therefore, the petitioner's temple requests this Court to direct the respondents to deposit the sale consideration to the petitioner's temple together with interest and costs.

6. Heard the arguments of the learned counsel for the petitioner as well as the learned Government Advocate for the respondents.

7. It could be seen from the proceedings dated 04.2.1999 by the Hindu Religious and Charitable Endowment Department that out of petitioner's lands of 9.27 acres, 8.27 acres have been sold to the District Collector, Namakkal and they have been considered as a special category and permission was granted as per the said proceedings and the sale amount should be deposited in one installment with 12% interest and no public objections were called for the said proceedings. The lands were sold for Rs.30,000/- per acre and an amount of Rs.3,72,150/- was fixed

for the said lands. It could be seen from the various communications between the authorities that even though various letters have been sent from one Department to another, till date no amount had been paid. It could also be seen that the Thakkar of the petitioner's Temple was made to run from pillar to post for seeking the said amount, which has been sold to the respondents. With no other alternative remedy, the petitioner Temple has sent a legal notice to the respondents on 23.3.2009 stating that if no amount is paid within 15 days, the petitioner would approach the appropriate forum for seeking remedy. On 03.4.2009, a letter has been sent by the Commissioner, Adi Dravidar Welfare, Government of Tamil Nadu, Chennai-5, namely the second respondent to the District Adi Dravidar Welfare Officer, Namakkal District and the Secretary to Government of Tamil Nadu, Adi Dravidar Welfare, Chennai-9 and it could be seen that the communication has been sent from one Department to another and no necessary and appropriate procedures have been taken for remitting the amount to the said temple.

8. When the matter is taken up for final disposal, the learned Government Advocate has produced a letter of the District Collector, Namakkal dated 01.8.2018, from which, it could be seen that the District Collector requested the Secretary to Government of Tamil Nadu, Rural Development and Panchayat Raj Department, Chennai to furnish the details of any Government Order, which has been passed regarding the payment of Rs.3,72,150/- with interest and as soon as the said Government Order was received, steps will be taken to deposit the said sum to the credit of the petitioner Temple. It is a very well established fact that a Hindu temple owns lands for its welfare and maintenance and also for performing day to day poojas. The small Temple in villages, owns lands and with meagre income, they perform poojas and the Hindu Religious and Charitable Endowment Board should take care of the said performance, but, instead of that, they have not taken any steps to pressurize the Government for passing necessary orders in depositing the said sale amount to the petitioner's Temple.

9. It is seen that there are various Temples under the Hindu Religious and Charitable Endowment Department and the Temples have more money and those monies are also spent for various other activities and that the small Temples are without any money which is depending upon the said lands and if the government is trying to take the said lands for various welfare activities of the deprived society, then they ought to have considered the plea of the petitioner's Temple which depends on the income from the said lands. When the lands are taken in the year 02.09.1999, till date (i.e) upto 2018, no amount was paid to the said Department (i.e Rs.30000/- p.a. With 12% interest).

10. It is also seen that the petitioner's Temple's daily maintenance and performing the poojas are being greatly affected due to lack of funds and this aspect has to be taken into account by the officers concerned. Thus, time taken by the Government in not depositing the amount for the petitioner's Temple is highly condemnable . The lethargic attitude of the respondents cannot be accepted by this court. Further, the first respondent namely Director of the Rural Development Department, and the second respondent, namely, the Government of Tamil Nadu, (i.e) the Commissionerate of Adi Dravidar Welfare, and the 3rd Respondent District Collector, Namakkal District, Namakkal are directed to deposit the amount of Rs. 30,000 /- with 12% interest within eight weeks from the date of receipt of copy of this order and if no amount is paid within the said time, the Government has to pay a sum of Rs 100/- per day as fine till the date of depositing of the said amount.

11. The respondents in the counter have submitted that by G.O.Ma.(pc) 43, Adi Dravidar & Tribal Welfare Department dated.29.05.1998 the Government have ordered for formation of Periyar Memorial, Samathuvapuram village in Tamil Nadu and an extent of 8.29 acres of the said petitioner's Temple was directed to be taken and the 3rd respondent was also given permission to construct the Samathuvapuram houses in Roc.(D2) 19131/98 dated 21.10.1998.

12. The market value was fixed at Rs.20,000/- per acre by the District Revenue Officer, Namakkal. Thereafter, the District Revenue Officer, Namakkal, and the Joint Commissioner of HR&CE Department Jointly inspected the land and increased the land market value to 50% and fixed the value at Rs.30,000/- per acre and the 3rd respondent had agreed for the same and recommended the same to the Secretary, Tamil Development and Hindu Religious and Charitable Department Chennai in Roc.(D2) 19131/98. The permission was granted by the Hindu Religious and Charitable Endowment on condition that the land costs at Rs. 30,000/- per acre with 12% interest from the date of entering upon till the date of registration of the land, should be remitted to the Hindu Religious & Charitable Endowment Department by way of Demand Draft as per Govt letter (PT) No 160 dated 8.8.2001. The said land has to be purchased on private negotiation in pursuance of G.O.Ms.No.885 Rev. Department, dated 21-09-1995. Accordingly, the amount has to be paid to the Director, Rural Development & Panchayat Raj, Panagal Buildings at Saidapet, Chennai 600 004.

13. Since, the said funds have not been received, the same will be deposited as early as possible and the delay was not willful and it was only due to the administrative reasons, the District Adi Dravidar & Tribal Welfare has filed a counter and

would also submit that only after receipt OF allotment of funds the compensatory amount will paid to the petitioner's Temple and the department had stated that they will be paying the same to the Hindu Religious and Charitable Endowment. Hence, this Court directs the respondents to immediately take necessary steps and pay the compensation amount to the petitioner's temple within a period of 8 weeks from the date of receipt of a copy of this order as stated above.

With the above observations and directions this writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To.

1. The Director of Rural Development Department. Chennai -5
2. The Commissioner, Commissionerate of Adi Dravidar Welfare, Chennai - 5
3. The District Collector, Namakkal District.

+1cc to Mr.C.Kulanthaivel, Advocate, S.R.No.76210

Writ Petition No.18523 of 2009

VSNII(CO)
GSP(05/02/2019)