

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.18543 OF 2008

ORDER:

This Writ Petition is filed seeking the following relief:

“to issue a writ, order or direction more particularly one in the nature of Mandamus or any other appropriate writ directing the respondent to consider the representation dt.7.07.2008 seeking to continue marriage function hall in the building bearing No.50-5-13 situated at Puramvari Veedhi, Jagannathapuram, Kakinada by set aside the letter Rc.No.B1/451/2007, dt.11.08.2008, issued by the 2nd respondent, as arbitrary and illegal.”

2. The petitioner claims that he is an Ex-Trustee of M.S.N. Charities, Kakinada, East Godavari District. As per the Will executed by the donor Sri Malladi Satyalinga Naicker, while donating certain properties to the M.S.N.Charities, certain objects have been mentioned, which are as under:

“The trustees will as soon as possible utilize out of eight lakhs any amount not exceeding one lakh for the following buildings and for acquiring lands for that purpose:

- (a) To build of bricks a school with large playgrounds and up to date Gymnasiums in Jagannathapuram, Cocanada, Madras.
- (b) To build of stones a temple at Chollangi Village near Cocanada for the deity of the village, the deity to be installed to be decided by the trusts of my charities and if they disagree the view of Duriseti Seshagiri Rao Panthulu to prevail, the temple should have an open court yard all round with a well.
- (c) To build a choultry (Chatram) of bricks in Jagannathapuram adjacent to the school for feeding the poor. If the one lakh is found insufficient for the above building, the buildings should be completed from the

interest and income accruing out of the remaining seven lakhs and on no account should any part of the seven lakhs be reduced. The seven lakhs shall from the capital for the upkeep of the charities consisting of the school, the chattram, temple and the fund for higher education, and the said charities will be maintained out of interest and income accruing from the said capital of seven lakhs. From the above the main object of the Great donor Sri M.S.Naicker, can be observed that all social activities to be developed along with the education.”

3. While things stood thus, it is stated, as per the wish of Sri M.S.Naicker, M.S.N.Degree College was established in 1971-72 in a subject building where Sri M.S.Naicker resided. After constructing a pucca building, the said college was shifted to that place and building was leased out to the Fisheries Department. After completion of the lease period, the same was renovated and converted as M.S.Naicker Kalyanamandapam (marriage function hall) to cater the needs of poor people residing in Jagannathapuram, Kakinada. The said Kalyanamandapam is being used for the benefit of poor people at low cost and there are no other Kalyanamandapams in the vicinity of that area. It is further stated, at the instance of the local M.L.A., Sampara Legislative Constituency, that the subject building was sought to be converted as Government B.C. Girls Hostel, which was initially located adjacent to the Kalyanamandapam. Converting the said Kalyanamandapam into Government B.C. Girls Hostel is contrary to the objects of the Trust and it is against the will and wish of the donor to help the needy and poor people to promote education and other social activities. The Government B.C. Girls Hostel can be

set up anywhere else. The object of the Trust is promoting free education etc., to the poor people. At any rate, the Government cannot take a decision to run a B.C. Girls Hostel in the property belonging to the Trust and it is for the Trust, which has to take such a decision. In spite of the objections raised by the petitioner, it is stated, the respondents are proceeding with converting the Kalyanamandapam into Government B.C. Girls Hostel. Hence, the Writ Petition.

4. When the matter came up for admission on 26.08.2008, this Court while admitting the writ petition, had not granted any stay, but, observed that any lease deed executed in terms of the impugned proceedings, dated 11.08.2008, should be subject to further orders in the writ petition.

5. A counter-affidavit is filed by the Assistant Commissioner and Executive Officer, the 2nd respondent herein. In the counter-affidavit, while setting out the objects of the Trust, it is asserted that initially, M.S.N.Degree College was established in the subject building and after construction of a pucca building, it was shifted to that place and building was leased out to Fisheries Department. After completion of lease period, the same was used as Kalyanamandapam recognizing the need of the locality and accordingly, the property came to be endowed. A decision was taken to lease out the subject building for maintaining a Government B.C.Girls Hostel and accordingly, the District B.C. Welfare Department made a representation to the Assistant Commissioner to provide the subject building for maintenance of

Government B.C. Welfare Hostel, on rental basis. The Trust Board of M.S.N. Charities in its meeting held on 20.06.2008, had unanimously resolved for leasing out the building to run a Government B.C. Girls Hostel. As per the Rules and the decision taken by the Trust Board to lease out the property, the subject building was leased out to Government B.C. Girls Hostel as the same would be the object of the Trust i.e., promoting education to the poor people.

6. Heard learned counsel for the petitioner and learned Government Pleader appearing for the 1st respondent.

7. A copy of last will of testament of Sri Malladi Satyalinga Naicker, as published by M.S.N.Charities, Kakinada, is placed on record. While donating certain property in favour of M.S.N.Charities, a direction was issued with respect to utilization of the amounts as observed above.

8. The charities herein before mentioned will rank as follows:

1. The maintenance of the school.
2. The sending of students for higher or technical education.
3. The maintenance of the temple.
4. The feeding of the poor.”

9. A comprehensive reading of the Will donating the property and monies in favour of the Trust discloses that the Executor of the Will laid a great emphasis on promoting education both for girls and boys, as is evident from the priority bestowed, with respect to maintenance of school and promoting education, in

utilization of the funds. The decision to lease out the property for running a Government B.C. Girls Hostel, would certainly promote the well-being of the girl child by encouraging them to go for studies and educate themselves. The said action would benefit to encourage the girls from rural areas to come out and pursue their education in the nearby towns.

10. It may be noted that Kakinada is a town surrounded by various villages and in those circumstances, leasing out property is in conformity with the objects of the Trust, for which the property was endowed and there is no illegality or impropriety in the action of the respondents and there is no merit in the writ petition.

11. Accordingly, the Writ Petition is dismissed. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.



CHALLA KODANDA RAM, J

JUNE 20, 2018

YVL

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM



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Date:20.06.2018

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