

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.2477 of 2017

ORDER:

In this Writ Petition, petitioner seeks to declare the action of respondents in not completing the installation of 33/11 KV Sub-Station in land admeasuring Ac.1.00 cents of Survey No.302/2 situated at Ramasamudram Village, Tripuranthakam Mandal, Prakasam District, as illegal and arbitrary and consequently, direct them to complete the same.

In the writ affidavit, petitioner averred that his late mother, by name, Sirasani Bala Kotamma, was the absolute owner and pattadar of the land in Survey Nos.302/1, 302/2, 302/3, 302/4 and 302/5; that when the respondent authorities were looking for suitable land for construction of 33/11 KV Sub-Station at Ramasamudram Village, at the request of the villagers, the petitioner's mother agreed to gift the land to an extent of Ac.1.00 cents for the said purpose and thereby, she executed a registered gift deed vide document No.310 of 2016 on 08.02.2016 in favour of the Divisional Engineer (Operations), APSPDCL, Markapuram Division, Prakasam District, represented by Prasanna Kumar, Son of Singari Prabhudas, in the Office of the Joint Sub-Registrar, Yerragondapalem, Prakasam District; that the Respondent Company issued a tender notice

No.ED/Projects/13/2015-16, dated 29.10.2015 seeking e-procurement bids for system improvement project works of erection and commissioning of 33/11 KV Sub-Stations and connecting 33 KV and 11 KV lines at six villages including Ramasamudram Village, Prakasam District; that the respondents had commenced the construction of 33 KV Sub-Station at Ramasamudram Village in the land gifted by the petitioner's mother, in November, 2016; that on 25.12.2016, the petitioner's mother passed away; that recently, the petitioner noticed that the respondents have stopped the construction work and when he approached them, they assured that the work would be completed; that on enquiry, he came to know that on account of political pressure, the respondent Company has decided to construct Sub-Station at some other place ignoring the land gifted by his mother voluntarily for the benefit of the villagers; that as a matter of fact, the Member of Parliament also addressed a letter to the respondent authorities to complete the work at Ramasamudram Village at the earliest and that as the respondents are not completing the construction of 33/11 KV Sub-Station, the petitioner filed the present Writ Petition.

Respondent No.4 - Divisional Engineer, Operation, APSPDCL, Markapuram Division, filed a counter-affidavit, in

which, it is specifically asserted that at no point of time, there was any request from the department seeking land of the mother of the petitioner for construction of Sub-Station. It is denied as to there being any request for gifting the land and accepting the same and also on account of political pressures, there is a decision to establish the Sub-Station at some other place. It is also asserted that the gift being unilateral having not accepted by the respondent authorities, the petitioner cannot insist upon them for construction of Sub-Station on the land in question.

Heard learned counsel for the petitioner and learned Standing Counsel for APSPDCL appearing for the respondents and perused the record.

It is to be noted that neither there is any mention in the entire writ affidavit as to the land alleged to have been gifted by the petitioner's mother at the request of the respondent authorities nor the petitioner produced any written communication to that effect. It is to be noted further that in the counter-affidavit, it is specifically asserted by the respondents that the gift has not been accepted. It is to be noted further that the establishment of a Sub-Station at one place or other would depend on the technical feasibility and suitability of the land and the same is within the exclusive discretion of the Corporation. Even assuming that the

petitioner's mother had gifted the land, if the respondents are not desiring to establish the Sub-Station thereon, the petitioner cannot compel them to do the same, as the discretion vests with the authorities. In the present case, there is denial of gift alleged to have been given by the mother of the petitioner. It is well settled that a gift would be valid and enforceable only when donee accepts it. In the case on hand, there is specific denial by the respondent authorities as to the acceptance of the gift by the Corporation. In view of the same, it can be said that ownership of the land would continue with the petitioner. As it is an admitted fact that the gift deed was submitted to the Corporation, the respondent authorities shall return the same to the petitioner and cooperate for its cancellation in order to avoid future complications inasmuch as the gift is not accepted, as has been stated in the counter-affidavit filed by respondent No.4.

Subject to the above, the Writ Petition is disposed of.

Miscellaneous Petitions, if any pending shall stand closed.

There shall be no order as to costs.

CHALLA KODANDA RAM, J

25th APRIL, 2018.

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