

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.20975 of 2015

ORDER:

Heard Sri CH.Ramesh Babu, learned counsel for the petitioner, Smt. K.Lalitha, learned counsel for the first respondent and the learned Government Pleader for Endowments for respondents 2 and 3 and Sri P.R.Prasad for impleaded fourth respondent.

2. This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“To declare that inaction of the respondents to execute and register the sale deed in respect of Plot No 8 and 9 purchased by the petitioner in the public auction held on 15061964 and conformation of the said sale by the respondent no 2 dated 12071964 and non consideration of representation dated 27032014 and 11032015 as the same is arbitrary unjust illegal and violative of Article 14 19 21 265 and 300A of the Constitution of India apart from being violative of the principles of natural justice and the relevant provisions of the Andhra Pradesh Charitable Hindu Religious and Endowments Act and the Rules made there under and to hold that the petitioner is entitle to get sale deed register forthwith.”

3. Pursuant to auction notification issued by the respondent institution, the petitioner herein emerged as the highest bidder for Plot Nos.8 and 9. According to the petitioner, he paid the entire sale consideration and despite the same, the respondents are not executing the sale deed in favour of the petitioner herein. It is further stated in the affidavit filed in support of the writ petition that in due compliance of Clause VI of the auction notification dated 09.06.1964, he paid 1/4th of the bid amount plus EMD and the balance amount was also paid to the Executive Officer on 06.07.1969.

4. On the other hand, it is submitted by the learned Standing Counsel for the respondent institution that in view of non-adherence to the conditions of

the auction notification, the petitioner herein cannot maintain the present writ petition and that the present writ petition is also liable to be dismissed on the ground of laches. It is submitted on behalf of the impleaded respondent No.4 that after the petitioner herein became the highest bidder in the auction, he sold out the subject land in favour of fourth respondent on 18.01.1970 and executed a letter of receipt of consideration and basing on which he obtained permission from the Grampanchayat and constructed dwelling house in the year 1970 and residing there.

5. Even according to the petitioner, as stated in the affidavit filed in support of the writ petition, he paid Rs.400/- towards EMD for two plots @ Rs.200/- each and on 15.06.1964 he paid a sum of Rs.560/-. It is not in dispute that the sale was confirmed by the Executive Officer on 12.07.1964. It is also not in dispute that the petitioner herein paid the balance amount with interest on 06.07.1969 and according to the petitioner the said amount was received by the Executive Officer under valid receipts.

6. Along with the counter affidavit filed by the first respondent institution, a letter dated 10.08.1964 addressed by the office of the Executive Officer of the first respondent temple is filed, wherein the Executive Officer asked the petitioner herein to comply with the conditions of auction and to pay the balance amount within 10 days. It is also significant to note that vide letters dated 27.4.1964 and 26.03.1968 petitioner herein requested 30 days and two months time, respectively, for complying with the conditions. As rightly pointed out by the learned counsel for the first respondent there is no explanation offered by the petitioner for the said delay of approximately 4 years. It is also significant to note that for the first time on 27.03.2014 i.e., after 50 years the petitioner herein submitted representation to the Commissioner requesting to complete the registration process in respect of

Plot Nos.8 and 9. It is pertinent to note in this context that no valid explanation is offered by the petitioner herein for the said delay of 50 years. This Court finds sufficient force in the submission of the learned Standing Counsel for the first respondent that the Executive Officer of the Temple without there being any approval of the higher authorities accepted the balance amount on 06.07.1969 and the same cannot be the basis for the petitioner herein to maintain the writ petition after lapse of 50 years and at this length of time. As per Clause 9 of the auction conditions, it is incumbent on the part of the auction purchaser to get the sale deed registered by paying the amounts and Clause 11 of the auction notification stipulates that in the event of failure on the part of the auction purchaser to adhere to the conditions of the auction notification, the EMD amount and 1/4th of the amount shall stand forfeited. There is absolutely no plausible explanation given by the petitioner herein as to why he waited for 50 long years in approaching this Court. It is also to be noted that for eviction of the persons in occupation of the property, proceedings under Section 83 have already been initiated and the same are pending. Therefore, it is open for the persons in occupation of the property to raise all the pleas available.

7. With the above observations, writ petition is dismissed. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:31.07.2018
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THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.20975 of 2015

Dated: 31.07.2018

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