

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Appeal No.326 of 2019

Date:18.12.2019

Between:

The Commissioner of Endowments,
Telangana, Boggulakunta, Hyderabad
And another

..Appellants

And

Mothukuri Janakamma and others

..Respondents

Standing Counsel for the appellants : Government Pleader
for Endowments

Counsel for the respondent : Sri B.Venkata Rama Rao
Sri Y.Rama Rao,
Government Pleader
for MA & UD.

The Court made the following:

JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

The present writ appeal is filed by the Commissioner of Endowments and another aggrieved by the common order, dated 28.12.2018, passed by a learned Single Judge in W.P.No.38720 of 2017 & batch, whereby the learned Single Judge has allowed the writ petition filed by the respondent Nos.1 to 8 in this writ appeal.

2. The respondents Nos.1 to 8 herein, who are the petitioners in the writ petition, have filed W.P.No.38720 of 2017 seeking the following prayers:

(i) to declare the action of the 9th respondent herein in issuing the notice, dated 26.10.2017, in LA/06/2007 and taking a decision not to register conveyance deeds in favour of the respondents Nos.1 to 8 herein, and (ii) the endorsement/orders, dated 13.10.2017 of 2nd appellant herein, not agreeing for registration in favour of the writ petitioners/ awardees/allottees in respect of allotted plots of lands vide allotment letters dated 10.07.2017, on the basis of objections/ claim of the appellants, as arbitrary, illegal, without justification, without jurisdiction, violative of principles of natural justice, contrary to the provisions of Land Acquisition Act, 1894, the consent award/s in case Nos.HMDA-P.L.C.No.139 to 141/2011 passed by Hon'ble Lok Adalat, Ranga Reddy District, allotment letters made in accordance with G.O.Ms.No.36, MA & UD Department, dated 22.01.2011 and violative of Articles 14, 21, 300-A of the

Constitution of India and consequently, set aside the impugned proceedings/orders/notice, dated 26.10.2017, issued by the 9th respondent herein and the endorsement, dated 13.10.2017, of 10th respondent herein with a direction to the 9th respondent to do all such consequential acts and things necessary in favour of the writ petitioners in respect of allotted plots made vide allotment letters in file No.LA/363/2005 of 10.07.2017.

3. It is the case of the respondents Nos.1 to 8 herein that their forefathers had personal inam lands admeasuring Acs.18.24 guntas in Sy.Nos.247, 250, 251, 483, 484, 485, 503, 521, 523 and 536 situated at Uppal Bhagat Village and Sy.No.781 of Uppal Khalsa Village, Uppal Mandal erstwhile Ranga Reddy District; they were in possession and enjoyment of the same since time immemorial. These inam lands were released forever (Dewaman Bhahal) in the year 1309 Fasli in favour of one Laxman Das, S/o.Amba Das, the grandfather of late Laxminarayana Das. The possession and enjoyment is maintained by the family members since 1782 (1190 Fasli). After the death of Laxman Das, S/o.Amba Das, his son Raghava Das and after him, his wife Smt.Seeta Ramamma and after her, her son late Mothukuri Laxminarayana Das have succeeded to the Inam lands and duly recognized by the Paiga Nawab/Nizam and subsequently by the Government of A.P. As per the Revenue Records, these lands are classified as 'Mafi Inams' since age old time and subsequently as "Dastagardhan". Subsequently, after the enactment of the Andhra Pradesh

(Telangana Area) Abolition of Inams Act, 1955 (for short 'the Inam Act'), the husband of the 1st respondent herein, M.Laxmi Narayan Das was issued proceedings conferring Occupancy Rights in his favour vide file No.L/2829/1987, by order dated 03.04.1989, by the competent authority under the Act; thereafter the Occupancy Rights Certificate, dated 21.04.1989, was also issued in favour of the said M.Laxmi Narayan Das. Thereafter, the name of M.Laxmi Narayan Das was mutated in the revenue records by the then Mandal Revenue Officer under the provisions of A.P. Rights in Lands Pattedari Pass Books Act of 1971 (for short 'the ROR Act').

4. The issuance of the Occupancy Rights Certificate in favour of M.Laxmi Narayan Das was questioned by a third party litigant by way of an appeal before the Joint Collector i.e, the Appellate Authority under Section 24 of the Act; in the said appeal, the appellant Nos.1 and 2 herein were arrayed as party respondents and the stand taken was that the present subject lands were the personal inam granted in favour of the ancestors of Late M.Laxmi Narayan Das and the said lands were not endowed to Sri Ramachandra Swamy Devasthanam/Temple as alleged by the third party appellant therein. Taking the same into consideration, vide order, dated 12.07.1994, the appeal filed by the third party was dismissed by the Appellate Authority. The order became final as no further revision was filed by any of the parties to the appeal.

5. Thereafter, M.Laxmi Narayan Das, in order to put an end to the controversy as to whether the subject lands are endowed or not, filed an application vide O.A.No.1 of 1990 before the Deputy

Commissioner of Endowments, Hyderabad, seeking a declaration under Section 45 read with Section 87 of the A.P. Charitable and Hindu Religious Institutions and Endowment Act (for short 'Endowment Act'), to which, the Assistant Commissioner i.e., the appellant No.2 herein was also a party. The Deputy Commissioner, Endowments Tribunal, Hyderabad, allowed the said O.A. on merits by order, dated 09.02.1990, holding that the subject lands are not endowed and also ordered for annulment of the entries made in the Endowments Register maintained under Section 38 of the Endowment Act in respect of the subject lands approved by the Assistant Commissioner, Endowments Department, in Pro.No.A/1981/ACH/69, dated 01.09.1969, pertaining to the temple of Sri Ramachandra Swamy Devasthanam. Thereafter, the Commissioner of Endowments i.e., the appellant No.1 herein vide proceedings No.N1/84517/ 1990, dated 10.12.1990, has confirmed the orders of the Deputy Commissioner.

6. The third party, who had earlier filed the Inam Appeal before the Joint Collector, carried the order of the Deputy Commissioner, dated 09.02.1990, passed in O.A.No.1 of 1990, in revision before the Regional Joint Commissioner. But on 31.01.1991 the said revision was dismissed on merits and the order of the Regional Joint Commissioner became final.

7. Subsequently, after the death of M.Laxmi Narayan Das, the respondent Nos.1 to 8 herein were declared as his legal heirs as per the orders, dated 28.12.2004, passed in O.S.No.1087 of 2004 on the file of the Principal Junior Civil Judge, Ranga Reddy District.

Thereafter, the respondents Nos.1 to 8 have partitioned the subject lands among themselves; pursuant thereto, mutation was also effected and pattedar passbooks and title deeds were issued by the revenue authorities. When a part of the land was acquired for the purpose of Moosi River Conservation and River Front Development, compensation was also awarded to the respondent Nos.1 to 8. Thereafter, on the representation given by respondents Nos.1 to 8 and other land owners, who lost their land for the said Moosi River Conservation and River Front Development, a package was proposed by the State Government and G.O.Ms.No.36 M.A. & U.D., dated 22.01.2011, was issued in which the respondents have agreed for the proposal that an area of 1,000 Sq.Yds., of developed area, per acre acquired land, will be allotted in lieu of compensation. When the authorities did not act on the G.O.Ms.No.36 issued by the Government by developing the lands, the respondents No.1 to 8 were constrained to file a writ petition before this Court. Vide order, dated 28.02.2011, in W.P.No.17005 of 2008 & batch, this Court directed the concerned authorities to complete the development work within six months from the date of that order so as to give the benefit of the G.O. to all the persons whose lands were acquired. Thereafter, the compromise proposal between the land owners and the HMDA was referred to Lok Adalat, Ranga Reddy District. In the said Lok Adalat, a consent award was passed on 24.09.2011 partly allowing the PLC Nos.131, 138 to 141 of 2011 in terms of the memorandum of compromise entered between the parties.

8. Subsequently, after a lapse of six years, the appellant No.2 herein, vide proceedings in Rc.No.C/1494/2016, dated 23.01.2017, issued notice, dated 20.02.2017, calling upon the respondents Nos.1 to 8 herein to submit their title documents and substantiate their claim, as the subject lands are endowed lands of Seetharama Swamy Temple. In spite of the explanation submitted by the respondent Nos.1 to 8, the appellants herein have written a letter to the HMDA authorities, who in turn issued the impugned notice whereby the authorities of respondent No.9 have stated that the appellants herein have not agreed for the registration of the conveyance deeds in favour of respondent Nos.1 to 8 as the Endowment Department is claiming title over the same. Therefore, a decision was taken not to register the conveyance deeds. Assailing the same, the writ petition No.38720 of 2017 was filed.

9. The learned Single Judge of this Court while passing a common order in W.P.No.38720 of 2017 along with other writ petitions, has held that the claim of the Endowments Department to the effect that the lands in question are endowed to Sri Ramachandra Swamy Temple was negated by the earlier findings of the Endowments Tribunal. Therefore, they cannot take a different stand contrary to the one taken earlier. As the orders of the Endowments Tribunal and the Inam Tribunal have attained finality, the Endowments Department cannot claim that the lands are endowed property of Sri Ramachandra Swamy temple. Hence, the learned Single Judge allowed the writ petitions.

10. The learned Government Pleader for Endowments has vehemently contended that the learned Single Judge has erred in misinterpreting the provisions of the Endowment Act and the orders passed by the Endowments Tribunal. By misconstruing the same, the learned single Judge has come to the conclusion that the Endowments Department does not have any right or claim in respect of the subject property. In fact, the respondent Nos.1 to 8 herein are Archakas who have $2/3^{\text{rd}}$ share in the income of the land, and balance $1/3^{\text{rd}}$ income is towards the maintenance and other expenditure of the temple. Thus, the above division of the income of the temple clearly shows that the lands are endowed to the temple.

11. Per contra, Sri B.Venkat Rama Rao, the learned Counsel appearing for the respondents Nos.1 to 8, has vehemently argued that the stand now taken by the appellants herein is contrary to the earlier stand taken by the department before the Inam Tribunal as well as the Endowments Tribunal; the order passed by the Joint Collector under Section 24 of the Act has become final; the orders of the Endowments Tribunal have also become final, as the same were confirmed by the revisional authority by the order, dated 31.01.1994. Moreover, the Occupancy Rights Certificate issued in favour of respondent Nos.1 to 8 were not challenged by the authorities of Endowments. Hence, they cannot re-agitate the issue as to whether the subject lands are endowed or not, by writing letters to the 9th respondent herein. Once the orders passed by the competent authority under the Inam Act and the Endowment Act have become final, the parties to the proceedings

before both the Tribunals cannot be allowed to take contrary stands subsequently without assailing the correctness or otherwise of the orders passed by the Tribunals established under the Inam Act or the Endowment Act. Therefore, he has contended that the learned Single Judge has rightly appreciated the facts of the case and passed the impugned order. Thus, the impugned order does not warrant any interference by this Court.

12. Having heard the learned Counsels appearing for both the sides, and after perusing the record, we are of the opinion that the appeal filed by the appellants herein is liable to be dismissed for the following reasons:

i) Under the provisions of the Inam Act, the person, who is in possession and occupation of the lands as on 01.11.1973, is entitled for grant of Occupancy Rights Certificate and the primary authority under the Act on verification of the physical possession and enjoyment of M.Laxmi Narayan Das has issued the Occupancy Rights Certificate. In the appeal filed by a third party before the Joint Collector under Section 24 of the Inam Act, the appellants herein were also arrayed as party respondents. The appellants herein have taken a stand that the land is a private patta land and not an endowed land. The said order granting Occupancy Rights Certificate infavour of M.Laxmi Narayana Das was confirmed by the Joint Collector/Appellate Authority in an appeal filed by a third party.

ii) Even in the O.A. filed by the late M.Laxmi Narayan Das, the Deputy Commissioner, Endowments Tribunal, has given a categorical finding that the lands are not endowed lands of Sri Ramachandra Swamy Temple, but are private lands of M.Laxmi Narayan Das. The order of the Deputy Commissioner, Endowments Tribunal, was confirmed in the revision filed by the third party, and has become final.

iii) While giving a finding that the subject lands are not endowed lands, a direction was given that the entries which were made in the Register maintained under Section 38 of the Endowment Act in the year 1969 in RC.No.A/1981/ACH/69, dated 01.09.1969 pertaining to the temple of Sri Ramachandra Swamy Devasthanam were directed to be annulled.

iv) The proceedings before the Inam Tribunal as well as the Endowment Tribunal have not been questioned by any of the authorities of the Endowments Department. Thus, they have attained finality. Once quasi judicial authorities, like the Endowments Tribunal, have given a finding that the lands are not endowed lands, after duly taking into consideration, the relevant documents, and the same have become final, subsequently the authorities cannot take a contrary stand without assailing the orders passed by the Tribunals before any Court of law, or superior authority. The appellants having taken a stand that the lands in question

are not endowed lands, cannot take a contrary stand subsequently without there being any legal basis.

v) The learned Government Pleader appearing for the appellants has fairly conceded that they have not assailed the orders of the Inam Tribunal or that of the Endowments Tribunal.

13. In view of the above mentioned facts and circumstances, we do not find any infirmity with the order passed by the learned Single Judge. Therefore, the appeal deserves to be dismissed; it is accordingly dismissed.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

18th December, 2019
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