

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No.18106 of 2020

ORDER:

This writ petition is filed with the following prayer;

“to issue a writ of mandamus or any other appropriate writ, order or direction, according permission to the petitioner to acquire the lands belongs to 3rd respondent temple in an extent of Ac.1148.12 gts in Sy.No.1663 to 1673 of Seetharampur Village, Shabad Mandal, R.R.District, for development of Industrial Park, and pass such other or further orders”.

2. The brief facts of the case are that the petitioner Corporation had filed a requisition for acquisition of endowment lands to an extent of Ac.1148.12 gts in Sy.Nos.1663 to 1673 situated at Seetharampur Village, Shabad Mandal, Ranga Reddy District, for development of Industrial Park, vide letter No.2358/LA/Seetharampur/05, dated 09.01.2006 and that the said lands were classified as 'Khidmathi Devan Inam' and those lands are under the occupation of encroachers. In response to the same, respondent No.2-Commissioner of Endowments, requested respondent No.1 to consider the said request subject to condition that the Corporation should pay the entire compensation as per the market value before taking possession vide letter dated 25.03.2010. The 2nd respondent informed the petitioner that since this Court passed an interim order in W.P.M.P.No.13204 of 2006 in W.P.No.10547 of 2006, permission should be obtained from this Court for acquisition of the subject lands. It is stated that the Government, in order to develop the industries in the State of Telangana, made proposals to acquire the subject lands. It is further stated that interim order was granted in W.P.M.P.No.15055 of 2005 in W.P.No.11812 of 2005 dated 07.06.2005, modifying the earlier order permitting alienation of lands of the temple for providing house sites to

weaker sections or for other public purposes after satisfying the genuineness of acquiring the temple lands for public purposes. Hence, the present writ petition is filed seeking permission to acquire the temple lands for public purpose.

3. Respondent No.3 filed counter affidavit stating that the 3rd respondent temple is an ancient temple which was in existence from times immemorial and the same was published under the provisions of Section 6(c)(ii) of Endowments Act 30 of 1987 and it was also registered under Section 43 of Endowments Act 30 of 1987 and that the said temple was having vast extents of endowed lands in the form of inams vested in the temple and that the priests were burdened with free services to the temple. It is stated that the petitioner Corporation came with a proposal for acquisition of endowed lands of the temple for the purpose of establishment of Industrial Park. It is further stated that this Court, in W.P.M.P.No.15055 of 2005 in W.P.No.11812 of 2005, had prohibited sale of temple lands by the Government, by taking into consideration the fact that the Government is permitting sale of temple lands to interested parties at lower price resulting heavy loss to the institutions whose endowed lands are being sold vitiating the object of the donors who donated vast extent of immovable properties to a charitable or religious institution. However, said order was modified granting permission to sell the temple lands when the sale is imminent that too only by way of public auction after recording reasons in writing. It is further stated that in case of any acquisition, the Commissioner of Endowments has to follow the procedure as mandated under Section 80 of Endowments Act. It is further stated that this Court, in few instances, permitted acquisition of the lands of the temples and other religious institutions for public utilities like laying of cables, high tension

transmission lines, canals and other waterways etc, but no permission was accorded for establishment of industries or distribution of house pattas to the poor. It is further stated that the subject lands are not even the Government lands, but they are held in trust by the State on behalf of the presiding deity of the temple and that the subject lands are being endowed for maintenance of the subject temple.

4. Heard Sri A. Sanjeev Kumar, learned Special Government Pleader for the petitioner, learned Government Pleader for Endowments for respondent Nos.1 and 2 and Sri K. Jagan Mohan Reddy, learned Standing Counsel for respondent No.3-Temple.

5. Learned Special Government Pleader appearing for the petitioner submits that because of the interim order granted by this Court in W.P.M.P.No.15055 of 2005 in W.P.No.11812 of 2005 and W.P.M.P.No.13204 of 2006 in W.P.No.10547 of 2006, respondent No.2 had addressed to petitioner to obtain permission from this Court and as such, the present writ petition is filed. He also submits that the Government has power to acquire the lands under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act, 2013'), and that there is no provision to acquire the subject lands under the Endowments Act. He further submits that recently, this Court in W.P.No.14733 of 2020 dated 21.09.2020, accorded permission to the Special Deputy Collector, Land Acquisition Department, to acquire the land by following due procedure under the Act, 2013.

6. Learned Government Pleader for Endowments submits that the Government has no power to acquire the subject lands under the Endowments Act.

7. Learned Standing Counsel for respondent No.3, while reiterating the counter averments, submits that the subject lands are under occupation of encroachers and that the temple has no objection for acquiring the said lands provided that the State Government deposits the entire compensation before taking possession.

8. In view of the aforesaid pleadings and rival contentions, it does not appear that any permission is required for acquisition of the subject lands under provisions of the Act, 2013. When that is so, it is not known as to why this writ petition is filed seeking permission for acquiring the lands. Learned Government Pleader for Endowments and learned Standing Counsel submit that earlier writ petitions were transferred to the High Court for the State of Andhra Pradesh, and that the learned Special Government Pleader submits that since the orders are intact in the earlier writ petitions, which were transferred to the High Court for the State of Andhra Pradesh, the petitioner filed the present writ petition.

9. When the matter was listed before this Court, Office was directed to place this writ petition before the Honourable the Chief Justice since the earlier writ petitions were heard by the Division Bench of this Court. But the matter was again listed before this Court. Based on the earlier orders passed by the Division Bench, the present writ petition is filed and this Court cannot pass any order inconsistent with the said orders passed by the Division Bench, and as such, permission as sought for in the present writ petition cannot be granted.

10. In view of above facts and circumstances, petitioner is not entitled for any relief in this writ petition. The writ petition is misconceived.

11. Accordingly, the Writ Petition is disposed of. No order as to costs.
12. Miscellaneous applications, if any, pending in this Writ Petition, shall stand closed.

24th November, 2020

A.RAJASHEKER REDDY, J

sj

