



HIGH COURT OF ANDHRA PRADESH
FRIDAY ,THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO

PRSENT

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN
WRIT PETITION NO: 33509 OF 2016

Between:

1. ARYA VYSYA SEVA SANGH, HYD., Mantralayam, Kurnool Office, Office at Patel Road, Raichur, Karnataka State, rep. by its Vide-President, Vellore Suresh s/o Chiranjeevi Rao, aged 65 years, occ: Business, r/o Plot No. 109, Empress Heights, Shaikpet, Hyderabad.

...PETITIONER(S)

AND:

1. PRL.SECY., REVENUE DEPT., HYD., & 2 OTHERS, rep. by its Principal Secretary, Revenue (Endowment -II) Department, Secretariat, Hyderabad.
2. The Commissioner of Endowments, A.P., Tilak Road, Hyderabad.
3. Sri Raghavendra Swamy Matha, Manthralayam, Kurnool District, Rep. by its Manager.

...RESPONDENTS

Counsel for the Petitioner(s): SUMANTH AMIRAPU

Counsel for the Respondents: GP FOR ENDOWMENTS (AP)

The Court made the following: ORDER

**THE HON'BLE SRI JUSTICE B KRISHNA MOHAN****WRIT PETITION No. 33509 OF 2016****ORDER:**

This writ petition is filed questioning the action of the 2nd respondent in issuing the proceedings in Memo in RC.No.M1/14091/2016 dated 14.07.2016 and sought for setting aside the same by directing the 2nd respondent to permit the 3rd respondent to register the land admeasuring 350x150 feet in Survey No.162 situated at Mantralayam, Kurnool District in favour of the petitioner.

2. Heard the learned counsel for the petitioner, the learned Government Pleader for the respondent Nos.1 and 2 and the counsel for the 3rd respondent.

3. The learned counsel for the petitioner submitted that the petitioner is a social service association conducting Nitya Annadanam and providing accommodation to the pilgrims including Arya Vysya community people visiting Mantralayam to have Darshan of Sri Guru Raghavendra Swamy. The petitioner proposed to construct a choultry at Mantralayam, Kurnool District and in that behalf requested the 3rd respondent to sell the subject land to the petitioner.



4. Accordingly, the 3rd respondent requested the 2nd respondent to accord permission to sell the open land admeasuring 5833 sq. yards in Plot No.116 of Mantralaayam village situated in Survey No.162 with the measurements of 350x150 feet to the petitioner. In response to the said request of the 3rd respondent, the 2nd respondent issued a public notice under Section 74 (1) of the Endowments Act (Act 17 of 66) vide Notice No.45/48282/77 dated 15.11.1977 inviting the general public in writing to send objections and suggestions if any in respect of proposed sale of the subject land.

5. In the said notice the probable price which was expected and notified as Rs.3,000/- per acre as against the valuation of Rs.2,000/- per acre as per the determination of the Collector, Kurnool, in his letter dated 06.09.1970.

6. After due enquiry the 2nd respondent in his letter No.M2/29302/82 dated 03.05.1982 asked the petitioner to intimate whether it is prepared to pay 10% interest on the sale consideration of Rs.3,000/- per acre from the date of taking possession of the land. In response to the same, the petitioner by his letter dated 21.03.1982 informed the 2nd



respondent that the petitioner was prepared to pay a sale consideration of Rs.3,000/- per acre and interest there on at 10% from the date of taking possession of the land i.e., dated 04.06.1976. In the letter dated 21.05.1982 the petitioner also requested the 2nd respondent to inform the head of the account for remitting the amount, but the 2nd respondent so far has not given the account details to the petitioner to deposit the said amount. As there was an urgent need for construction of the Choultry, the 3rd respondent requested the petitioner to proceed with the same on the subject land.

7. The General Power of Attorney holder and the legal advisor of the 3rd respondent in his letter dated 07.06.1974, informed the petitioner that the 2nd respondent has granted permission to construct the said Choultry at Mantralayam on 21.11.1975. By another letter dated 12.03.1976 again reminded the petitioner by the said GPA holder of the 3rd respondent to proceed with the construction immediately as the Choultry was necessary.

8. Accordingly, the foundation stone was laid and the Bhoomi Pooja was performed and the construction was commenced on 07.10.1976 and the same was completed by



07.04.1985. Immediately thereafter, the Choultry started Annadanam for the pilgrims. Ever since, the pilgrims are being accommodated in the said Choultry and Annadanam programme has been going on at free of cost.

9. Even after more than 25 years, as there was no registration for the subject land in favour of the petitioner, it has approached the 2nd respondent *vide* representation dated 16.10.2007 seeking direction to the 3rd respondent to execute a sale deed in favour of the petitioner. The petitioner also sent a DD bearing No.66-48 dated 16.10.2007 for a sum of Rs.80,156/- towards the cost of the land for an extent of 5833 sq.yards with 10 % interest thereon from taking possession on 04.07.1976 to 04.11.2007.

10. In the meantime, W.P.No.11812 of 2005 was filed in the erstwhile High Court questioning the allotment of the site therein to the weaker sections of the society on the ground that the properties are belonging to the Endowment Department. Then the Hon'ble Court was pleased to pass an interim order in W.P.M.P.No.15055 of 2005 in W.P.No.11812 of 2005 directing the respondents therein not to alienate/transfer any of the properties of the Endowment



Department without the permission of the High Court at Hyderabad. This order was passed basing on the G.O.Ms.No.1137 dated 14.06.2005 under which the Hon'ble Sri Justice A. Venkat Ram Reddy (retired) was appointed as a Commission to enquire into the alienations affected by the then previous Commissioner. In the said G.O., it was mentioned that the Commission will identify the cases given on grant of leases, licences, sales/alienations of agricultural and non-agricultural lands belonging to the charitable and Hindu Religious Institutions of the Endowments Department of A.P., and orders passed with respect to compromises entered under Sections 80, 82 and 89 (2) of the Act 30/1987 from 01.01.1995 onwards.

11. The learned counsel for the petitioner further submitted that under the above said G.O., the Commission can enquire into the transactions from 01.01.1995 onwards but not for the transactions which took place in the year 1977. The Commission is constituted mainly to go into the omissions and commissions committed in respect of the alienations of the Endowment properties by the then, retired Commissioner of Endowments Mr. I. Venkateswarlu who was also a party



respondent in the above said writ petition, in which the above interim order was passed. Though the above said G.O., the above said writ petition and the interim order passed therein have no application to the facts of this case, the 2nd respondent without applying his mind passed the impugned proceedings.

12. Be that as it may, the 3rd respondent initiated action in O.S.No.40 of 1997 on the file of Senior Civil Judge, Adhoni seeking permanent injunction against the petitioner when there were some disputes earlier. The said suit was decreed as prayed for and against which the A.S.No.58 of 2007 was preferred on the file of II Additional District Judge, Kurnool, Adhoni. Subsequently, at the instance of all the parties the said appeal was referred to the Lok Adalat at Adhoni and the Lok Adalat bench passed an award between the petitioner and the 3rd respondent as per their compromise in the Lok Adalat case No.890 of 2015 and compromise award was passed on 22.09.2015 setting out the terms and conditions, which have become final. Then the said Lok Adalat award dated 22.09.2015 along with the representation of the petitioner was placed before the 2nd respondent to permit the



3rd respondent to execute the sale deed in favour of the petitioner with respect to the subject land. The 3rd respondent so far has not executed the sale deed in favour of the petitioner as required under the Lok Adalat award in view of the impugned proceedings of the 2nd respondent dated 14.07.2016. Hence, this writ petition.

13. On the other hand, the 2nd respondent filed his counter basing upon the same the learned Government Pleader for Endowments submitted that the 3rd respondent Mutt was registered under Section 6 (d) of the Act 30/87 and it is under the administrative control of the Endowments Department. It has been administered and managed by the Matadhipathi. It was registered under Section 38 of the repealed Act, 17/1966 and under Section 43 of the Act, 1987 which was approved by the Assistant Commissioner, Endowments Department, Kurnool. The said registers contain the details of the properties of the 3rd respondent including the subject property of this writ petition i.e., Ac.1.02 cents (5833 Sq. Yards) in Survey No.162 (old paimash No.116) at Mantralayam (V&M), Kurnool District.



14. Considering the request of the petitioner and as well as the 3rd respondent for construction of the Choultry in the subject land, the 2nd respondent issued a public notice under Section 74(1) of the Endowments Act (Act 17 of 66) *vide* notice No.45/48282/77 dated 15.11.1977 inviting the general public to send objections in writing if any, in respect of the proposed sale. In the said notice it was notified as Rs.3,000/- per acre as against the valuation of Rs.2,000/- per acre as per the letter of the District Collector, Kurnool dated 06.09.1970. The 2nd respondent by its Memo No.M2/29302/82, dated 03.05.1982 asked the petitioner to intimate whether it is prepared to pay 10% p.a. interest on the sale consideration of Rs.3,000/- per acre from the date of taking possession of the land and in response to the same by its letter dated 21.05.1982 (wrongly mentioned as 21.03.1982) informed the 2nd respondent to the effect that the petitioner is prepared to pay the sale consideration of Rs.3,000/- per acre with interest @ 10% from the date of taking possession of the land and in the said letter dated 21.05.1982 the petitioner also requested the 2nd respondent



to inform the head of the account so that the petitioner can remit the amount.

15. As there was an urgent need for construction of the Choultry, the 3rd respondent permitted the petitioner to proceed with the construction of the Choultry *vide* its letter dated 07.06.1974 which was given by the 3rd respondent after obtaining permissions from the 2nd respondent *vide* R.Dis.No.11397/74/M1, dated 23.05.1974. But the petitioner commenced the construction of Choultry at Mantralayam in the year 1976 and the same was completed in the year 1985. Ever since, the petitioner has been running the said Choultry by providing Annadanam and accommodation to the pilgrims of Mantralyam.

16. As per the said Lok Adalat award dated 22.09.2015, the petitioner paid Rs.75 lakhs to the 3rd respondent on 11.09.2015 and the regular sale deed has to be executed by the 3rd respondent in favour of the petitioner after receiving 2 Kgs. of gold as per the terms of the above said award. While so, the petitioner sent a letter dated 06.02.2016 to the 3rd respondent to execute a registered sale deed for the subject land and in turn the 3rd respondent gave a reply dated



23.02.2016 to the petitioner to obtain permission from the 2nd respondent. Accordingly, the petitioner sent a letter dated 03.03.2016 to the 2nd respondent requesting to accord permission to the 3rd respondent to execute a registered sale deed in favour of the petitioner with reference to the subject land. Thereupon, the 2nd respondent gave a memo to the 3rd respondent in Rc.No.M1/14091/2016, dated 14.07.2016 informing that the Hon'ble Court imposed general ban on alienation of Endowment lands through private negotiations except by way of public auction *vide* order dated 07.06.2005 in W.P.M.P.No.15055 of 2005 in W.P.No.11812 of 2005. As stated supra, the 2nd respondent rightly passed the impugned memo in Rc.No.M1/14091/2016, dated 14.07.2016 and the petitioner has no right to challenge the same in this writ petition. Hence, sought for dismissal of this writ petition.

17. The counsel for the 3rd respondent submitted that the respondent No.3 has no objection to execute the sale deed in favour of the petitioner with respect to the subject land on fulfilling the handing over of the 2 Kgs of gold by the petitioner to the 3rd respondent as per the Lok Adalat award dated 22.09.2015.



18. Thus there is no dispute with regard to the facts and the events as contended/argued by all the counsels.

Hence in the backdrop of the above said facts and circumstances, the issue that would emerge for consideration of this Court is whether the memo in Rc.No.M1/14091/2016, dated 14.07.2016 of the 2nd respondent is sustainable?

19. To answer this issue, it is to be seen that the GPA holder and the legal advisor of the 3rd respondent, addressed a letter to the 2nd respondent dated 18.10.1973 seeking permission to sell the subject land to the petitioner in an extent of 5833 Sq. yards equivalent to 350x150 Sq.yards in Survey No.162 (old paimash No.116) for the purpose of construction of Choultry by the petitioner in order to cater to the needs of the devotees visiting Mantralayam specifically for rendering Annadanam to the pilgrims at free of cost and providing accommodation. The 3rd respondent *vide* letter dated 07.07.1974 informed the petitioner that the 2nd respondent granted permission for construction of Choultry at Mantralayam *vide* R.Dis.No.11397/74/M1, dated 23.05.1974. The GPA holder and the legal advisor of the 3rd respondent also addressed a letter dated 21.11.1975, to the



petitioner to start construction in the subject land, in view of the urgency of the same. Then the 2nd respondent *vide* proceedings dated 15.11.1977 called for objections and suggestions from the general public with respect to the proposed sale of the subject land by the 3rd respondent to the petitioner fixing probable price at Rs.3,000/- per acre. The 2nd respondent *vide* proceedings in Rc.No.M2/29302/82, dated 03.05.1982 addressed to the petitioner whether it is prepared to pay 10 % interest on the sale consideration of Rs.3,000/- per acre from the date of taking possession of the land. For which the petitioner *vide* letter dated 21.05.1982 addressed to the 2nd respondent informed that the petitioner was prepared to pay the sale consideration of Rs.3,000/- per acre with interest at 10% p.a. from the date of taking possession of the land i.e., from 04.07.1976 to 04.11.2007 and the amount will be remitted as per the instructions of the 2nd respondent to the head of the account indicated by the office of the 2nd respondent. In view of the permissions granted by the 2nd respondent as stated supra, the petitioner and the 3rd respondent acted upon the same and the



petitioner constructed the Choultry in the subject land and carrying out the above said activities.

20. While so, there was an interim order in W.P.M.P.No.15055 of 2005 in W.P.No.11812 of 2005 by the Division Bench of the erstwhile High Court dated 07.06.2005 which reads as follows:-

“In the meantime, it is directed that no sales of Endowment lands shall be affected without the permission of this Court till further orders. No compromises shall be affected under Section 89 till further orders from this Court with respect to Endowment lands.

Pendency of this writ petition shall not be an impediment in any way for the State to proceed against the persons who may be involved in any offences relating to sale/compromise of the temple lands under any provision of the Endowments Act. They shall always be at liberty to revise the orders passed earlier, if warranted by law.”

21. The Government of Andhra Pradesh also issued G.O.Ms.No.1137, dated 14.06.2005 constituting Commission of Inquiry under the commissions of Inquiry Act 1952 by



appointing the Hon'ble Sri Justice A. Venkata Rami Reddy, a retired judge of the erstwhile High Court as Commissioner of Inquiry to inquire into the specific cases of leases, licences, sales/alienations of Endowment lands and orders passed directing to enter into compromises under Sections 80, 82 and 89 (2) of the Act, 30/87 and as per the terms of the reference of the commission with regard to the above said transactions from 01.01.1995 onwards they shall be gone into. Subsequently, there was a modification of the interim order by the erstwhile High Court in W.P.M.P.No.15055 of 2005 in W.P.No.11812 of 2005 dated 22.11.2005 which is as follows:

“Heard the learned counsel for the parties.

The implead petitioners' case is that the interim order passed by this Court in WPMP.No.15055 of 2015, dated 07.06.2005, has become an impediment for even genuine sales made by the Temples or Endowments.

Said interim order has already been clarified in the orders passed by the Court in W.P.No.15795, 15796 of 2005, dated 08.08.2005.



Therefore, we modify the interim order passed by this court in W.P.M.P.No.15055 of 2005, dated 07.06.2005, to the effect that there is no restriction Imposed by this Court for affecting sales by way of public auctions.

However, it is made clear that the sales arising out of compromises or negotiations shall remain stayed in terms of the interim order passed by this Court in W.P.M.P.No.15055 of 2015, dated 07.06.2005.”

22. Subsequently, the petitioner made a representation to the 2nd respondent dated 16.10.2007 to direct the 3rd respondent to execute the sale deed in favour of the petitioner with respect to the subject land to an extent of 5833 Sq. yards in P.No.116 at Mantralayam. In the due course, the petitioner and the 3rd respondent also suffered a Lok Adalat award dated 22.09.2015 in Lok Adalat case No.890 of 2015 and as per the terms and conditions of the settlement, the petitioner also paid 75 lakhs to the 3rd respondent and after handing over of 2 Kgs of gold by the petitioner to the 3rd respondent, the 3rd respondent shall execute a registered sale deed in favour of the petitioner with respect to the subject land of this writ petition.



23. As everything has concluded between the petitioner, the 2nd respondent and the 3rd respondent, the 3rd respondent sought permission of the 2nd respondent to execute the sale deed in favour of the petitioner with respect to the subject land. But by way of the impugned proceedings dated 14.07.2016 without disputing any facts and the events as mentioned above, the 2nd respondent simply observed that as there is a general ban imposed by the High Court in the matter of alienation of Endowment lands by private negotiation, the 3rd respondent was asked to approach the High Court. In view of the same, the petitioner challenged the said proceedings of the 2nd respondent dated 14.07.2016 in this writ petition. The 2nd respondent while passing the impugned proceedings dated 14.07.2016 did not controvert any of the facts and events that have taken place between the petitioner and the respondents except citing that there is a general ban to give any such permissions in view of the orders dated 07.06.2005 and 22.11.2005 in W.P.M.P.No.15055 of 2005 in W.P.No.11812 of 2005 of the erstwhile High Court and accordingly rejected the request of the petitioner and the 3rd respondent without assigning any



other reason. As can be seen from the above, there was an offer and acceptance between the parties and the 2nd respondent accorded permission, to proceed with the said sale of the subject land of the 3rd respondent. Accordingly, the issue was settled and construction was made and the petitioner has been running the Choultry as observed above. The 2nd respondent initiated the sale proposals and accorded permission under the provisions of the old Endowments Act of 1966 and the said decision of the 2nd respondent is valid and binding even on the 2nd respondent as per the saving Clause under Section 155 (2) of the Act 30/1987. The general ban order as stated (*supra*) imposed by the Division Bench of the erstwhile High Court is only prospective in action and it would not hit the decisions made earlier and the transactions completed prior to the said order. The above said Lok Adalat award dated 22.09.2015 is also binding between the parties and it shall be allowed to be executed in its true letter and spirit and as such the 2nd respondent cannot be injuncted by referring to the orders of the Division Bench of the erstwhile High Court which was passed in a



different case under different circumstances unconnected to the facts and circumstances of this case.

24. In the result, the impugned proceedings of the 2nd respondent dated 14.07.2016 is not liable to be sustained and accordingly it is set aside by directing the 2nd respondent to allow the 3rd respondent to register the subject land of the writ petition in favour of the petitioner subject to the compliance of the terms and conditions of the Lok Adalat award dated 27.09.2015 passed in Lok Adalat case No.890 of 2015 of the Lok Adalat bench at Adhoni.

Accordingly, the writ petition is allowed. No costs.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

JUSTICE B KRISHNA MOHAN

04.11.2022
PGT



THE HON'BLE SRI JUSTICE B. KRISHNA MOHAN

WRIT PETITION No. 33509 OF 2016

.11.2022

PGT