
(1997) 12 AHC CK 0035

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 23628 of 1989

Cawnpore Hindu Orphanage Society

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 17-12-1997

Acts Referred:

Citation : (1998) 1 UPLBEC 677

Hon'ble Judges : V.P. Goel, J;Ravi S. Dhavan, J

Bench : Division Bench

Advocate : R.K. Agarwal, for the Appellant; Lalji Sinha and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Ravi S. Dhavan and V.P. Goel, JJ.—The petitioner, Messrs Cawnpore Hindu Orphanage Society, 80/89, Latouche Road, Kanpur, through its Secretary, is a registered society under the Societies Registration Act, 1860. It is contended that it was formed for the welfare of the down-trodden and orphans and a rescue home for destitute women. It was started in 1943. The property is situate at No. 24, Block S, Scheme No. 4, Sisamau, Kanpur, measuring 3.14 acres. It was given on lease by the Cawnpore Improvement Trust for 999 years on a premium of Rs. 5,223 and 5 annas.

2. Over the years, it is admitted on record that other persons were permitted to come and occupy the land which was leased to the society and the society shut its eyes and the land was encroached. Either way, the Society is earning rent from those who occupy the land given on lease. Thus, the Kanpur Development Authority, the respondent No. 2, finding that the leased land is being utilised for a purpose otherwise than for which it was leased, put the society under notice to cancel the lease. In effect, the Kanpur Development Authority intimated that the land is being utilised negating the objects of the society.

3. The notice received by the Cawnpore Hindu Orphanage Society, is dated 22nd

July, 1989, Annexure "7" to the writ petition. In pursuance of the proceedings following the notice came an order of 3rd November, 1989, Annexure "9" to the writ petition by which the Kanpur Development Authority gave reasons why the lease granted to the petitioner is being cancelled the land under lease, was being utilised other than for the purpose for which it was given.

4. It is admitted between the parties that there were unauthorised occupants or for that matter outsiders were invited to occupy the land which was in the hands of the society. A list of the ventures which were being carried on the land leased to the society, does not appear to indicate that it was in keeping with the objects of the society, for which it was incorporated. For example, the list reveals a stall for selling wood, shops selling sand, clothes, cotton combing machines, smithy works, iron safe works, lime stone bhattis, stone ballast and grit, coal, pound for cattle at least four of them, and a timber market. These activities certainly are not the objects of the society, namely, orphans or destitute women. The petitioner alleged that he filed a suit to evict these persons. The petitioner further alleges that these persons have filed a suit to retain their possession. Looking either way, from the eyes of the petitioner or from the eyes of the unauthorised occupants, insofar as the Kanpur Development Authority is concerned, the land is being utilised otherwise than the purpose for which it was leased. It is being used for a purpose which was not the object of the society. If the Government grants are to be given to the institutional organisation which the Cawnpore Hindu Orphanage Society claims to be, the Government expects that the land will be used strictly for the purpose of the society and not for other purposes. The lease was not for leasing it out further or that the society makes a capital out of it.

5. The Court cannot fault the Government or the Kanpur Development" Authority in putting the society under notice and then resuming the land.

6. The writ petition is misconceived and it is accordingly dismissed. The interim order dated 8.12.1989 is discharged.