

(2023) 03 OHC CK 0117
In the Orissa High Court
Case No : Writ Petition (C) No.438 Of 2022

Saraswati Sishu Vidya Mandir, Sikharpur	APPELLANT
Vs	
Chief Administrator, Lord Shree Jaganath Temple Administration, Puri And Others	RESPONDENT

Date of Decision : 16-03-2023

Acts Referred:

Citation : (2023) 03 OHC CK 0117

Hon'ble Judges : Arindam Sinha, J;S. K. Mishra, J

Bench : Division Bench

Advocate : S. S. Das, A. K. Nanda, Subrat Satpathy, Nilamadhab Sarkar

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

1. Mr. Das, learned senior advocate appears on behalf of petitioner, whose prayer is for direction upon opposite party nos.1 and 2, to execute and register deed of sale in its favour, in respect of total area, as mentioned in the prayer, standing recorded in name of Shri Shri Jagannath Mahaprabhu Marfat Shri Mandir Prashashak, Puri (Temple Administrator).

2. Submissions of Mr. Das stand recorded in our orders dated 4th November, 2022 and 1st February, 2023. We reproduce below paragraph 2 from order dated 4th November, 2022 and also paragraph 2 from our subsequent order dated 1st February, 2023.

Order dated 4th November, 2022:

"2. Mr. Das submits, execution of conveyance and registration thereof had been held up because of purported resistance by opposite party no.3. Said opposite party filed several writ petitions, most of which were dismissed as not pressed. Now there is no impediment. To that effect aforesaid affidavit has been filed. He serves copy of the affidavit dated 29th April, 2022 to Mr. Satpathy, learned

advocate appearing on behalf of opposite party no.1.”

Order dated 1st February, 2023:

“2. Mr. Das, learned senior advocate appears on behalf of petitioner and draws attention to our order dated 4th November, 2022. He points out, we recorded his submission that opposite party no.3 had filed several writ petitions, most of which were dismissed as not pressed and adjudication herein was held up thereby. He hands up order dated 30th March, 2022 made in W.P.(C) no.12542 of 2018 (of opposite party no.3) and demonstrates that said writ petition was dismissed for default. Opposite party no.3 has been watching the proceedings and has now surfaced to cause further delay. As such, he presses for hearing and order on the writ petition.”

3. Mr. Sarkar, learned advocate appears on behalf of opposite party no.3 and submits, procedure prescribed for applying to buy land belonging to the Lord was complied with by his client in making application dated 28th March, 2006, duly received by the Temple Administration. He draws attention to annexure-C/5 in his client’s counter to submit, by letter dated 15th June, 2014 the administrator told the co-ordination officer that his client had made application but it was not considered. We reproduce below text of the letter.

“In inviting a reference to the letter and subject cited above, I am to say that the applicant, Pratibha Mohanty has stated that she had also applied in prescribed form to purchase Ac.0.700 dec. of land from Khata No.660/169, Plot No.814 and 820 of Mouza-Unit No.26, Sikharpur, Cuttack which has not yet been considered. During pendency of her land sale application, the prayer of the Secretary, Saraswati Sishu Mandir has been considered. But your parawise report is silent over the matter.

You are therefore, requested to submit a detailed report whether her land sale application is received in Cuttack District office/Co-ordination office or not, if received what action has been taken on her land sale application. A copy of the above application is enclosed herewith for ready reference.”

We find, the co-ordination officer filed report by letter dated 24th June, 2014, in which, inter alia, two things were said. Firstly, opposite party no.3 was not in possession of the land and that is why case of petitioner was considered. Secondly, permanent lease deed granted by the math to father-in-law of said opposite party by deed dated 27th February, 1932 appeared to be not genuine.

4. Mr. Satpathy, learned advocate appears on behalf of the Temple Administration. On earlier occasion he had submitted, consideration had been received from petitioner. His client is ready to execute the documents for conveyance of title to petitioner on compliance with formalities. Today he submits, formalities are that there needs to be given approval by the Temple Management Committee as also from the State Government.

5. Mr. Nanda, learned advocate, Additional Government Advocate appears on

behalf of State. He submits, opposite party no.3 had urged the case urged here in her own writ petition WP(C) no.12542 of 2018, which was dismissed by co-ordinate Bench on said order dated 30th March, 2022.

6. We expect the temple management to accord its approval without delay as we will be unable to appreciate that the sale happened without them knowing about it.

7. Opposite party no.1 is directed to place the matter for approval, obviously upon obtaining approval from the Managing Committee, to the State Government, through opposite party no.2, within three weeks of communication. At this stage, Mr. Das draws attention to his client's affidavit dated 29th April, 2022 annexing counter affidavit filed by the Collector and District Magistrate, Cuttack in the writ petition of opposite party no.3 [WP(C) no.12542 of 2018], dismissed by co-ordinate Bench as aforesaid. Paragraph 6 from the counter is reproduced below.

"6. That the averments made in Paragraphs-3 & 4 of writ petition are not true. It is humbly submitted that, on receipt of the order dt.26.07.2017 passed in W.P. (C) No.27372 of 2013, the Tahasildar was directed to enquire into the matter. The Tahasildar with the help of her field functionaries has conducted field enquiry and submitted their report vide letter No.203 dt.06.01.2018. It revealed from the report that an existing School, namely, Saraswati Sisu Vidya Mandir, Mahanadi Vihar, is functioning over the land in question i.e. over Plot No.820 Ac.0.405 dec & Plot No.814 Ac.0.202 dec. under Khata No.660/169 & the Secretary of the School has deposited the amount with the Chief Administrator, Sri Jagannath Temple, Puri on proper receipt for purchase of the land having possession over the land. Smt. Prativa Mohanty (Petitioner herein) is not in possession over the said land. Further it is humbly submitted that Sri Biswanath Das, Coordination Officer, Cuttack, has submitted report vide Letter No.129 dt.13.10.2017 in this context wherein, it is categorically mentioned that Smt. Prativa Mohanty has not approached the sub-committee. But Saraswati Sisu Vidya Mandir has applied to purchase the land and paid the full consideration money of Rs.47,34,600/- and also in possession of the land in question. Basing on the report of the concerned officers, the District Land Sale Sub Committee, after consideration, has recommended to send the original land sale case record No.912/2006 and copy of enquiry report of Tahasildar along with copy of decision taken in the meeting held on 12.01.2018 to the Administrator, Jagannath Temple, Puri for registration of the land in favour of Saraswati Sisu Vidya Mandir, Mahanadi Vihar, Cuttack. Accordingly, the case record No.912/2006 has been sent to the Administrator, Shree Jagannath Temple, Puri vide this office Letter No.1375 dt.02.05.2018.

In this context, it is humbly submitted that the writ petition merits no consideration. In view of the fact that considering overwhelming material, decision has been taken in favour of Op. Party No.3 and as such the claim of the petitioner stands rejected. In no way, the said decision can be said to be faulty."

(emphasis supplied)

8. In view of last preceding paragraph it transpires that there was direction by order dated 26th July, 2017 passed in WP(C) no.27372 of 2013 on the functionary of State to enquire into the matter. The Tahsildar duly enquired and upon obtaining satisfaction, the case record was sent to the administrator, Shree Jagannath Temple Puri under office letter no.1375 dated 2nd May, 2018, for registration in favour of petitioner. Accordingly, opposite party no.1 is directed to execute the sale deed and notify petitioner for joining in registering the deed. The execution and registration of the sale deed is to be done, within four weeks of communication.

9. The writ petition is disposed of.

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