

Indo Arab League, Through Its Chairman

v.

A. Faizuddin & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE H.L. DATTU HON'BLE MR. JUSTICE RANJAN GOGOI

Civil Appeal No. 237 Of 2013 (Special Leave Petition (Civil) No. 5615 Of 2007) | 09-01-2013

1. Delay condoned.

2. Leave granted.

3. This appeal by special leave is directed against the judgment and order passed by the High Court of Judicature of Andhra Pradesh at Hyderabad in Writ Petition No. 22445 of 2005, dated 11.07.2006.

4. Before delving into the merits of the case, we would first bring forth the factual resume of the case. One Smt. Basheerunnisa Begum was the original owner of the property in question. She had filed an application before the State Government stating her intention of donating the excess land, admeasuring 10,000 sq.mts., held by her in Plot Nos. 63 and 66 at Road No. 10, Banjara Hills, Hyderabad to the Appellant-Society for promotion of its cultural activities and construction of a complex by it and sought for exemption from the provisions of Chapter III of the Urban Land (Ceiling and Regulation) Act, 1976 ("the Act" for short).

5. The Appellant-Society had also filed an application dated 03.05.1984 before the State Government, inter alia, requesting the Government to exempt the aforesaid excess land from the provisions of the Act and thus enable the original owner to donate the said land, for the purposes of construction and establishment of a cultural centre, in favour of the Appellant-Society.

6. The Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad had examined the aforesaid requests and vide letter dated 10.07.1984, reported to the State Government that Smt. Basheerunnisa Begum ("original owner" for short) holds excess land, to the extent of 9056 sq.mts., in Plot Nos. 63 and 66 in Survey Nos. 120 and 121 of Shaikpet village, Hyderabad.

7. The State Government, after examining the aforesaid requests of the original owner, the Appellant-Society and the report of the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad had passed an order granting exemption from the provisions of Ceiling Act to the aforesaid extent of excess vacant land in exercise of its powers under clause (9) of Sub-Section (1) of Section 20 of the Act, vide G.O.Ms. No. 1187, Revenue (UC.II) Department, dated 16.07.1984. Therein, it was specifically noted that the original owner shall not utilise the said land for any other purpose but for the purpose stated in her application.

8. On a request made by the appellant on a later date, the State Government, by its subsequent G.O.Ms. No. 154, dated 13.02.2006 has withdrawn its earlier exemption order contained in G.O.Ms. No.1187 dated 16.07.1984 and allotted the said land in favour of Appellant-Society in exercise of its power under Section 23(4) of the Act, thereby the Appellant-Society has become the absolute owner of the said land having right, title and interest in it.

9. A letter dated 20.09.2005, addressed to the Chief Justice of the High Court was sent seeking his intervention in the interests of minorities and to protect the land in question from being utilized for commercial purposes. The said letter was treated as Public Interest Litigation on the ground that the said land was being mis-utilised for the purposes other than the purpose for which exemption was granted under the Act and was taken up as Writ Petition No. 22445 of 2005. The Court, by impugned judgment and order directed the appellant-Society to strictly adhere to the laws applicable for the purpose of making any construction as undertaken by them in their counter affidavit and has further directed not to alienate the subject land in any manner but to utilize it only for cultural or religious purpose. Aggrieved by the aforesaid direction, the Appellant-Society is before us in this appeal.

10. The issue in this appeal is limited to the aforesaid observations made in the impugned judgment and order by the Writ Court.

11. Shri. Nageshwar Rao, learned senior counsel appearing for the Appellant-Society, would submit that in view of the several Government Orders passed pursuant to the request made by the original owner and thereafter by the Appellant-Society, the Appellant-Society has become the absolute owner of the property in question and, therefore, the High Court was not justified in directing the Appellant-Society not to alienate the land and use it in any manner other than for cultural or religious purposes. The learned senior counsel would further submit that the statement in the impugned judgment and order, to the effect that the Appellant-Society would adhere to certain undertaking given by them in paragraph 5 of their reply statement/counter affidavit, is not proper and that the Writ Court has misinterpreted the undertaking of the appellant-society. He explains that the undertaking given by the Appellant-Society, before the High Court, was to restrain itself from making any construction without obtaining appropriate permission/licences from the regulatory bodies such as Municipal Corporation and, therefore, submits that the statement quoted above by the Writ Court is factually incorrect.

12. Learned senior counsel for the State fairly states that the State Government, after receiving appropriate fees/consideration, had allotted land to the Appellant-Society, thereby, the absolute ownership in the land vested in the Appellant-Society.

13. Since the Writ Court had treated the anonymous letter as a Public Interest Litigation, there is no other person opposing the prayers made by the Appellant-Society in this appeal.

14. We have carefully perused the impugned judgment and order passed by the High Court. The High Court, after issuing appropriate notices to the persons who would be aggrieved by the order, has come to the conclusion that the Appellant-Society is the donee of the land and, thereafter allottee of the land by virtue of the order passed by the State Government dated 13.02.2006. In spite of

the aforesaid conclusion, the Court has directed the Appellant-Society not to alienate the land in any manner but use it for a particular purpose.

15. We are of the considered opinion that, since the Appellant-Society has become the absolute owner of the land by virtue of the order dated 13.02.2006 passed by the State Government, the Appellant- Society is at liberty to use the property in question to its benefit and advantage and the Writ Court, therefore, was not justified in making certain observations, which would come in the way of Appellant-Society in utilizing the land to its maximum advantage.

16. In the result, while allowing this appeal, we set aside the following observations made by the High Court in paragraph 9 of the impugned judgment and order:

"...Accordingly, we can only direct M/s. Indo Arab league to strictly adhere to the laws applicable for the purpose of making any construction and as per the undertaking given by it in paragraph - 5 of their counter affidavit. The construction made also shall not be alienated in any manner, but have to be used only for cultural or religious purpose."

17. In the facts and circumstances of the case, the parties are directed to bear their own costs.

18. Ordered Accordingly.