

31/1/04

PROCEEDINGS OF THE SPECIAL OFFICER & COMPETENT AUTHORITY,
URBAN LAND CEILING, HYDERABAD.

PRESENT: SRI. K.RAMGOPAL, I.A.S.

Procs.No. F2/4/93

Dated:29-1-2004

Sub:- Urban Land (Ceiling & Regulation) Act, 1976 – Hyderabad Urban Agglomeration – Statement in Form-I u/s. 6(1) of the Act, filed by M/s. Gurudev Sidhapeth (A charitable trust) represented by GPA holder Sri.Satish Modi– Orders u/s. 19(1) (iv)of the Act, issued violation of the provision of the Act – Revised proceedings u/s. 8(1) and notice u/s.8(3) of the Act – Issued.

Ref:- 1. Statement in Form-I u/s. 6(1) of the Act, filed by M/s. Gurudev Sidhapeth represented by GPA Satish Modi in C.C.No. 4/93
2. E.O. Report dt: 17-6-1993
3. Proceedings u/s. 19 (v) of the Act, dt: 9-9-1993
4. Government Memo No. 29446/UCII(2)/98-29, dt: 21-11-02
5. E.O. Report, dt: 12-1-2004

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ORDER:-

M/s. Gurudev Sidhapeth (a charitable trust) represented by G.P.A. Sri.Satish Modi has filed a statement in Form-I u/s.6(1) of the Act, declaring the following properties:

Sl.No.	Description of the property	Locality	Extent
1	L.W.B. in Pre.No. 1-8-179	S.D.Road, Secunderabad	2658.11 Sq.Mtrs.
2	Vacant land in Sy.No. 37 & 38	Begumpet	6561.38 Sq.Mtrs.
3	Land with building in Pre.no. 6-3-344	Banjara Hills	2376.00 Sq.Mtrs.
4	L.W.B. in Pre.No. 5-4-187/3&4	M.G. Road	880.30 Sq.Mtrs.
5	L.W.B. in Pre.No. 5-4-187/3&4	M.G. Road	1949.00 Sq.Mtrs.
TOTAL			14424.79 Sq.Mtrs.

The statement has been got enquired into and after due verification the declarant trust has been determined as holder of the following properties:

Sl.No.	Description of property	Location	Total area	Area protected (in Sq.Mtrs.)	Vacant land
1	L.W.B. in Pre.No. 1-8-165 &179, S.D.Road	Secunderabad	2163.75	2163.75	-
2	Vacant land in Sy.No. 37 & 38	Begumpet	6561.38	-	6561.38
3	Vacant land in Pre.no. 6-3-343	Banjara Hills	2376.00	-	2376.00
4	L.W.B.in Pre.No.5-4-187/3&4	M.G.Road, Secunderabad	2829.30	2829.30	-
TOTAL			13930.43	4993.05	8937.38

Out of the total area of 13,930.43 Sq.Mtrs. an extent of 4,993.05 Sq.Mtrs. treated as protected u/s. 4(11) of the Act, and the vacant land to an extent of 8,937.38 Sq.Mtrs. held by the trust was declared as exempted u/s. 19(i)(v) of the Act, as per the proceedings of this office issued vide reference 3rd cited with certain conditions that the exemption provided

u/s. 19(i)(iv) of the Act, will cease as and when the trust intends to alienate the lands. In case the trust intends to alienate the lands, the trust should obtain prior permission from the Government who will in turn consider the case in terms of G.O.Ms.No. 917 Revenue (UC-I) Dt: 12-9-89.

After issue of the proceedings dt:9-9-93, the applicant has applied to the M.C.H. for permission to construct a residential building with stilt + 5 floors in the land in Sy.No.37 and 38 of Begumpet, Hyderabad. And the MCH in file No.327/TP7/SD/96 have accorded permission for construction of residential complex vide permit No.50/41 dt:13-12-1996. Hence the trust has violated the conditions imposed in this office proceedings u/s 19(i)(v) of the Act and the construction of the said residential complex became illegal. The illegal construction in Sy.No.37 & 38, Begumpet has become a subject matter of enquiry by the A.C.B. as well as the Vigilance Commissioner. In a meeting took place on 28-5-98, before the Vigilance Commissioner, A.P., Vigilance Commission, Hyderabad, it was decided to resume the land at Begumpet as it will become surplus in view of the violations committed by the trust.

In view of the above, this office vide Lr.No.F2/570/Corr/98, dt:9-6-98 through the C.L.R. & U.L.C., Hyderabad, has sought permission of the Government u/s 34 of the Act to issue revised orders u/s 8, 9, 10 & 11 of the Act. Meanwhile, on a notice of demolition issued by the MCH, the trust has filed W.P.M.P.No.17426/1998 in W.P.No.14501/1998 before the Hon'ble High Court and obtained stay orders on 28-5-1998. Simultaneously, the trust has filed an application u/s 20(1)(a) of the Act before the Government seeking exemption of the vacant land in its possession for alienation.

It was also brought to the notice of this office that the trust has sold an extent of 1303.00 Sq.Mtrs in Premises No.1-8-179, S.D.Road, Secunderabad through a registered document No.4315/93, dt:21-8-93 and 318.00 Sq.Mtrs through registered sale document No.P/90/98 in violation of provisions u/s 10(i)(iv) of the Act. Therefore, a show cause notice has been issued to the trust on 1-8-98 for initiating action against them u/s 38 of the Act. Against the show-cause notice issued, the trust has filed W.P.5547/1999 before the Hon'ble High Court and the Hon'ble High Court in its orders dt:13-10-99 has declared the show-cause notice as invalid and cannot be acted upon.

An appeal was preferred against the orders of the Hon'ble High Court in W.P.5547/99. The High Court in W.A.No.453/2000 dt:5-6-2000 while admitting the appeal directed the trust to file explanation to the show-cause notice and the Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad to examine the same. The High Court, however, has stayed the prosecution during the pending of the appeal. However, on 28-1-2002 the W.P.5547/99 was set aside by Hon'ble High Court.

The Government on 29-7-2002 have issued orders in G.O.Ms.No.455 for regularizing the occupation of the surplus lands by the 3rd parties with certain conditions. Some of the flat owners in sy.No.37 & 38 of Begumpet have approached this office for regularization of their occupation through G.O.455 dt:29-7-2002. A letter was addressed to the Government on 27-9-2002 for seeking instructions on this issue. Sri Satish Modi representing M/s.Gurudev Siddhapeeth has filed a representation on 1-10-2002 before the Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad stating his no objection for the course of action to be taken in view of G.O.455 dt:29-7-2002 and requested for availing the opportunity under the said G.O.

The Government in Memo.No.29446/UC.II(2)/98-29 dt:21-11-2002 has informed the Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad that “ the orders of the then Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad dt:9-9-93 which say that the lands held by Gurudev Siddhapeeth Charitable Trust are exempted under section 19(i)(v) of the Act and that the said exemption ceases in the trust intends to alienate the lands, do not call for interference of Government under section 34 of the Act. In as much as there is no illegality/impropriety in passing said orders nor irregularity in the procedure followed. What has happened in this case is that there is no irregularity in the orders as such, but the Trust has violated the conditions of non-alienation envisaged under section 19 of the Act and also the Special Officer’s qualifying order dated: 9-9-93 and thus the trust rendered itself ineligible for the exemption provided in section 19 of the Act. Therefore in such a case the Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad himself can proceed to take action suo-moto under section 6(2) of the Act and pass orders determining the surplus land held by the Trust so as to take further action in terms of the Policy Guidelines issued in G.O.Ms.No.455 or 456 Revenue (UC.I) Department dated:29-7-2002 as may be appropriate ”.

Meanwhile, one Smt.Rupendra and V.G.K.Prasad have filed W.P.23152/2002 praying that the government should not grant any exemption to the trust for the construction took place in the lands at Begumpet. The High Court in its W.P.M.P.No.29044/2002 dt:27-11-2002 have issued interim orders granting stay against the exemption in favour of the trust. The said interim orders were vacated on 30-1-2003 on a W.V.M.P.No.35/2003 filed by Sri Sathish Chandra Modi representing the trust. The W.P.No.23152/2002 was posted for final hearing.

One Sri Bhimeswara Rao Dattada filed W.P.No.23826/2002, and along with the trust and secretary of Sapphire apartments association and Romanesque apartments owners association have filed another W.P.No.5271/2003 before the Hon’ble High Court for allowing them to file applications for regularization under G.O.No.455. The Hon’ble High Court in its order dt:5-12-2002 and 28-3-2003 respectively have allowed their W.Ps.

The Government was informed of the legal developments and sought clarification by this office letter dt:20-2-2003 as to whether issuing of notice u/s 6(2) of the Act is required and can this authority proceed with issuing orders u/s 8(1) of the Act. The Government in Memo.No.29446/UC.II(2)/98-30-dt:21-2-2003 have informed that there can be no objection to take action u/s 8, 9 & 10 of the Act based on the information available in the statement filed u/s 6(1) of the Act. Therefore, Government requested the Special Officer & Competent Authority, Urban Land Ceiling, Hyderabad to take action accordingly.

In view of the above, the case was taken up for enquiry again. It is found during enquiry that the trust has made an agreement with Sri Satish Modi on 29-6-1991 for selling away the properties situated in Hyderabad Urban Agglomeration for a consideration of Rs.2.6 Crores. Later on, the trust has approached the Charity Commissioner of Maharashtra, Bombay requesting permission for the sale of the properties declared herein. The Charity Commissioner, Maharashtra has issued orders vide Progs.No.J/4/181-91/12224/92 dt:30-6-1992 granting permission u/s 36 (i)(a) of the Bombay Trusts Act 1950 for sale of the immovable properties in Hyderabad Urban Agglomeration with a condition that an application for no objection certificate under Urban Land Ceiling Act should be made within a period of one month from the date of the sanction order. Hence the G.P.A of the trust Sri Sathish Modi has filed a declaration u/s 6(1) of the Act.

Thus, it is clear that the said properties are no longer used towards the objectives of the trust and being put to sale for profit. Hence the protection accorded to the trust u/s 19 are no more valid and all the provisions under chapter-III of the Act will apply to the properties of the Trust.

The properties held by the trust are briefly described below:

I. Vacant land in Sy.No. 37 & 38 of Begumpet village:

The trust has acquired the property in Sy.Nos.37, 38 of Begumpet(vg) to an extent of 6571.38 Sq.Mtrs through a gift deed No.1552/75, dt:7-6-1975 from one Smt.Kusum P.Modi. As per the measurement sketch, the total area is 6,561.38 Sq.Mtrs this is treated as vacant land. During the enquiry it is revealed that in the land residential complexes were constructed and the flats were sold to the 3rd parties.

II. Vacant land in Pre.No. 6-3-343, Banjara Hills,Hyderabad:

The trust has acquired this property to an extent of 2,376.00 Sq.Mtrs at Banjara Hills, Hyderabad through a gift deed document No.3576/75, dt:21-8-1975 from one Sri Pravin Chandra M.Modi.

As per the measurement sketch the total area of the premises is 2,376.00 Sq.Mtrs. This correlates with T.S.No.19, Ward.No.85, Block-A of Khaitatabad(vg) recorded

in the name of Sri Pravin Chandra M.Modi from whom the trust has acquired through registered gift deed.

During the enquiry it was found that an extent of 26.68 Sq.Mtrs was covered by an ACC room. No record has been furnished to prove that the structure was existing prior to the commencement of the Act. Hence the entire area is treated as vacant.

III. Land with building Pr.No. 5-4-187/3 and 4, M.G.Road, Secunderabad:

The premises in T.S.No.4 of Bholakpur(vg), Secunderabad(M), Hyderabad District. The declarant trust has acquired the above property to an extent of 880.30 Sq.Mtrs. through a Registered Document No. 756/7, dt: 7-5-1977 which is after the commencement of the Act. There is no documentary evidence whether any permission has been obtained by the vendor for alienation of the property which is after the Act. However there is a non-dwelling unit existing prior to the Act, hence it is protected and excluded from computation.

IV. Vacant land in Pr.No. 5-4-187/3 and 4, M.G.Road, Secunderabad:

The premises in T.S.No.4 of Bholakpur(vg), Secunderabad(M), Hyderabad District. This land has been acquired by the trust vide Registered Sale Deed No. 1929/71. As per the document the total area is 1949.00 Sq.Mtrs. As per the check measurement there is a A.C.C. Room constructed over an extent of 22.80 Sq.Mtrs. which is after the Act. Therefore the same is ignored and the entire area is treated as vacant land and computed to the holding of the trust.

V. Land with building in Pre.No. 1-8-179, S.D.Road, Secunderabad:

The trust has acquired an extent of 2658.11 Sq.Mtrs in Pre.No.1-8-179, S.D.Road, Secunderabad through the following Registered gift deeds.

Sl.No.	Location	Registered doct. No.	Extent in Sq.mtrs.
1	1-8-179, S.D. Road, Secunderabad	1695/74,dt: 17-10-1974	769.21
2	1-8-179, S.D. Road, Secunderabad	1853/71, dt: 6-10-71	1888.90
			2658.11

Subsequently in the year, 1988 there was an exchange of deed between Girija ben Modi Charitable Trust and Gurudev Siddhapeeth which was registered as document No.P172 of 1988 dt:14-7-1988. The declarant trust acquired the Pre.No.1-8-169, S.D.Road, Secunderabad to an extent of 757.00 Sq.Mtrs while releasing the same extent of 757.00 Sq.Mtrs in Pre.No.1-8-179, S.D.Road. As such there is no material change in the extent except the location of the site.

As per the measurement sketch, the total extent of premises held by the trust is 2646.43 Sq.Mtrs out of which an extent of 482.68 Sq.Mtrs is affected in the road which is not taken for computation. The balance area will be $2646.43 - 482.68 = 2163.75$ Sq.Mtrs.

During the enquiry it is revealed that the trust has sold out the property to Haryana Seva Sangh and the trust has demolished the structures, at present the site is vacant and the trust is not having land in their possession. However, since the property was held by the trust as on the date of commencement of the Act, the same is treated as vacant land and computed to the holding of the trust since structures were demolished without seeking prior permission u/s.22 of the Act.

Thus the declarant trust holds the following vacant land:


Sl.No.	Description of the property	Locality	Extent
1	Vacant land in Sy.No. 37 & 38	Begumpet	6561.38
2	Vacant land in Pre.No. 6-3-344	Banjara Hills	2376.00
3	Vacant land in Pre.No. 5-4-187/3,4	M.G.Road, Secunderabad	1949.00
4	Pre.No.1 -8-179, S.D.Road, Sec-bad.	S.D.Road, Secunderabad.	2163.75
TOTAL			13050.13

Out of the total area 13050.13 Sq.Mtrs. the trust is allowed to retain to an extent of 1000.00 Sq.Mtrs. and he is provisionally determined as surplus vacant land to an extent of 12050.13 Sq.Mtrs.

Draft statement u/s.8(1) and notice u/s. 8(3) of the Act, issued calling for objections if any to be preferred within (30) days from the date of receipt of the orders.

This order is issued subject to the provision of sub-section (2) of section 6 and sections 15, 18, 22 & 38 of the Act.


*Special Officer & Competent Authority,
Urban Land Ceiling, Hyderabad.*

To 
M/s. Gurudev Siddhapeeth
(A charitable trust)
Represented by G.P.A. Sri.Sathish Modi,
R/o. 1-10-72/2/3, Begumpet, Hyderabad.

Copy submitted to Special Chief Secretary to Government.
Copy to Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad.
Copy to Commissioner, Vigilance, A.P., Hyderabad.

Copy to Charity Commissioner, Maharashtra State, Mumbai,
83, Dr. Annie Besant Road, Worli, Mumbai - 400018.