

Office of the Special Officer &
Competent Authority, Urban Land
Ceiling, Nampally, Hyderabad.

F2/570/Cor./98

Dated: 17-2-2001.

To

The Principal Secretary to
Government Revenue (UCII) Dept.
A.P., Hyderabad.

(THROUGH the Chief Commissioner of Land Administration)

Sir,

Sub:- UL(C&R)Act,76 - H.U.A. -- Land in Sy.No.37,38 of Begumpet Vg.
held by M/s.Gurudev Sidhapeeth Charitable Trust violation of
Provision of U.L.C.,Act,1976 -- Show cause notice issue - Explanation
submitted to drop the further proceedings U/s.38 of the Act -- Reg.

Ref:- Proecs U/s.19 of the Act vide No.F2/4/93, Dated.9/9/93.

2. Lr.No.813/VC-C1/98-2,Dated. 19-5-98 and note on the meeting held on 28-5-98.
3. Proposals U/s.34 of the Act, submitted to the Govt. through CLR vide No.570/Corr./98., Dated9-6-98.
4. Show cause notice issued Dt.1.8.98.
5. W.P.No.14501/98, filed by M/s.Gurudev Sidhapeeth Trust.
6. Exemption application U/s.20 of the Act, forwarded for Remarks of SO&CA., in Govt. Memo No.78579/UCII/98, Dt.11-12-98.
7. Explanation submitted by M/s Gurudev Sidhapeeth Trust to the Show cause notice Dt.1-8-98.
8. Judgement of Honourable High court in W.P.No.5547 of 99.
9. Orders of Honourable High court in W.A.No.453/2000.
10. Charity Commissioner Maharashtra State, orders at 30.12.91.
11. Statement orders of the Charity Commissioner, Maharashtra dt30.6.92.

I invite kind attention to the references cited, and to submit that M/s. Gurudev Sidhapeeth Trust has filed declaration U/s.6(1) of the Act, in CC.N.4/93, through his G.P.A holder Sri Satish Modi, declaring the following properties held by the Trust.

S.No.	Description of the Property	Locality	Extent in sq.mts.
1.	Land with bldg.1-8-179	S.D.Road, Sec bad.	2658.11
2.	Land with bldg.Pre.No.6-3-344.	Banjara Hills	2376.00
3.	Land with bldg.Pre.No. 5-4-187/3	M.G.Road.Sec bad.	880.30
4.	- do -	- do -	1949.00
5.	Vacant land in Sy.No.37&38	Begumpet	6561.38

After due verification, Orders U/s.19 of the Act were issued declaring the said properties as exempted treating it as held by a Charitable Trust.

The Vigilance Commissioner has observed during the meeting held by the officials on 28-5-98, that as per the proceedings of the SO&CA, ULC., Hyderabad. Dt. 9-9-93, an extent of 6551.386sq.mts. in Sy.No.37 and 38 of Begumpet village was exempted from the ULC as it meant for a Charitable Purpose. It is also indicated that the above exemption will cease as end when the trust alienate the land.

The Vigilance Commissioner has advised the SO&CA to examine and revise/modify the portion of the Proceedings Dt.9-9-93 relating to the land. Later proposals U/s.34 of the Act, were submitted to the Govt. vide reference 3rd cited through the CLR & ULC to accord permission U/s.34 of the Act, to issue the revised orders under the provision of the Section. 8,9,10 and 11 of the Act.

At this stage a Show cause notice was issued on 1-8-98 to the Trust M/s.Gurudev Sidhapeeth in the reference 4th cited (copy enclosed) calling explanation to show cause as to why action should not be taken against them to prosecute U/s.38 of the Act on the grounds of alienation of the properties mentioned in the notice contrary to the provisions of the UL(C&R) Act,1976 with out obtaining prior permission of the Government.

In response to the Show-cause notice issued the constituted attorney of Gurudev Sidhapeeth Trust Sri Satish Modi filed written explanation on 16-6-95 along with the list of documents relied up on.

During the pendency of action U/s.34 and 18 of the act, the Trust has filed an application before the Govt. seeking exemption U/s. 20 of the Act. A W.P.No.14501/98 was filed by the Trust against the SO,ULC along with six of other respondents seeking orders against the demolition of the construction taken up under permit No.50141/96. while the matter stood thus, the declarant Trust has filed another W.P.No.5547/99 against the SO, ULC and the Sub-Registrar for of document in respect of the protected property.

The Honourable High Court has allowed the W.P. with the following observations.

“ As already held that in view of the provisions of Sec. (4) (11) the chapter III of the Act would not apply to a property covered by building And therefore there is no need to get any clearance from ULC authorities as it is not Coming under the purview of excess vacant land.”

Against the said Order, a Writ Appeal 453/2000 filed by the Govt. The Honourable High court has admitted the W.A. and given certain directions during the pendency of the W.A. The observations and directions of Honourable High court In W.A.4531/2000 are cited below.

“The respondents will be at liberty to file reply to the show-cause notice and the appellant authorities are at liberty to decide the explanation. If the limitations for Prosecution is expiring , the appellant authorities are at liberty to launch Prosecution against the respondents. However such a prosecution as launched remain stayed during the pendency of this appeal. However this order does not Preclude the appellant authorities from dealing with the exemption application, on merits said to have been filed by the respondents.”

In compliance with the above direction given in the W.A., the explanation filed by the declarant Trust, against the Show-Cause notice has been taken up for hearing on dt. The contentions raised by the counsel of the trust during the hearing are discussed below:

(1) With regard to sale of properties Item No. II and III of Show-Cause notice, they being built up properties with existing houses constructed prior to the Commencement of the ULC. Act,. they were declared as protected Property of a Trust vide SO&CA Orders F2/4/93, Dt.9-9-93. Thus the sale of any house property which has been held as Protected property does not require any prior permission of ULC authority and More over section 27(1) of the ULC., which imposes a restriction on transfer Was held as un-constitutional by the bench of Supreme Court of India reported in A.I.R.1981 SC at page 234 and more over the Charity Commissioner of Maharashtra State by Order Dt.30-12-91 permitted the sale of all four properties belonging to the Trust infavour of MR.Satish Modi dated 29-6-91.

As regards the property covered by Sy.No.37 & 38 it is contended that as on date not even a single sale deed has been executed for the said property land and the land is still in the name of the trust. It is state, that by virtue of the order of the Charity

Commissioner Maharashtra Estate, the trust can not alienate this property until the exemption U/s.20 (1) of the Act, is granted by the Govt. of A.P.

That the trust has not been in a position to protect the property from land grabbers and anti-social elements and in order to safe guard this property the trust was entangled in end less litigation covered by O.S.Nos.458/84,74/85,228/87 on the file of the Sub-ordinate judge R.R.Dist. and all those cases were finally declared infavour of the trust. The protected tenants also surrendered their PT rights vide proceedings No.B/1150/93, dated 23-4-1994 of MRO.

The Charity Commissioner of Maharashtra on the application filed by the trust, Permitted the sale of four properties belonging to the trust U/s.36(1) (a) of Bombay trust act, to Mr.Satish Modi for a considration of Rs.2.60 Crores subject the following conditions.

- (1) The sale shall be executed with in a period of Six months from the date of this order.
- (2) Application for no objection certificate under UL(C&R) Act,76 is made with in a period of one month from the date of the sanction if deemed necessary and a copy of the same is endorsed to the Charity Commissioner, Maharashtra state Bombay for record.
- (3) Trustees shall abide by the provision of all laws applicable to the sale.
- (4) All expenses of Conveyance such as stamp duty and registration charges etc., shall be born by the purchaser.
- (5) The Trustees should file one change report U/s.122 of the Bombay Public trust Act 1950 after the completion of sale with the asst. Charity Commissioner to get the record amended because of change in property holding.

The land in Sy.No.37 &38 with its ongoing construction activity still vest with the Trust only, that the construction activity has been taken up after obtaining the permission of the charity commissioner and the building plan has been got approved from MCH and Exemption petition U/s.20 has been pending with the Govt. since Oct 15th 1998.

After hearing the arguments advanced by the Counsel Sri.Mohd.Ali and after examining the document filed the findings are discussed below:-

The M/s Gurudev Sidhapeeth Charitable Trust is a registered trust founded by renowned Saint Swami Muktanand Paramahansa in the year 1962. It's office is located in Ganeshpuri Thane district of Maharashtra. The trust originally desired to establish a branch at Hyderabad. But it could not materialize. It has got certain properties in Hyderabad.

The property in Hyderabad could not be safeguarded by the trust and thus involved in protracted litigation in the hands of local vested interests. Therefore the trust passed a resolution to sell the property held by the trust in Hyderabad and utilize the sale proceeds to meet the objectives of the trust. An advertisement was issued in Deccan Chronicle in March 1990. The value of the property as per the valuation report of the trust is Rs. 2,05,6000 and Sri Satish Modi offered to purchase the said property for 2.50 Crores on "as it is where it is basis". Later after negotiation the offer was increased to 2.60 Crores.

The trust has accepted the consideration offered by Sri Satish Modi and obtained the sanction of the Charity Commissioner, Bombay under Public Trust Act 1980, U/s.36(1). The trust in its letter dt.19-10-97 confirmed the receipt of 2.60 Crores in respect of properties situated in Hyderabad. But no document has been executed by the trust in favour of Sri. Satish Modi and the name of the trust still remains as the owner in respect of Begumpet property. Subsequently the trust has executed a sale deed in the year 1993 in favour of Haryana Seva sangh in respect property located in Pre.No.1-8-79 new/Old No.(41) with structures covering an extent of 1303.00 Sq.mts. Haryana Seva Sangh has also filed the declaration before the SO&CA after purchase of the above property. As the above sale transaction covers a protected property after obtaining the permission of Charity Commissioner Maharashtra, no action need be taken as it is permissible under the provisions of ULC act. The declarant Haryana Seva Sangh has been declared as the holder of property at Pre.No.1-8-179 covering an extent of 1303.00sq.mts. and the declarant being a charitable trust and it is entitled for exemption U/s. 19(i) (iv) of the ULC Act.

In respect of the other property i.e., property in Sy.No.37,38 of Begumpet as of now no alienation of the said property was so far made as per the information obtained from the registration Authorities. As the Begumpet property still vests with the trust, Prima facie there is no scope for launching prosecution against the trust or its attorney.

The Honourable High court in its judgment W.P.No. 5547/99 dated 13-10-99 observed that the petitioner did not execute the sale deed alienating the vacant property

According to the orders of charity Commissioner, Maharashtra the trust has received Rs.2.60Crores and the same was kept in the long term fixed deposits and the interest received there on is being spent on the activities of the trust. Sec.19(iv) says nothing in chapter shall apply to any vacant land held by public charitable or religious trust and required and used for any public charitable or religious purpose, Provided that the exemption under this clause shall apply only so long as such land continues to be required and used for such purposes by such trust.

The trust being an absentee land-lord and its Head-Quarters located in Bombay could not protect the land from the hands of land grabbers, with the consent of the charity Commissioner, Maharashtra state, the trust generated Rs.2.60Crores income for furtherance of it's objectives. The said amount was kept in long term fixed deposit and the interest amount is being used to under take the noble cause of upliftment of poor, free medical service, Promotion of education and universal brotherhood. Instead of keeping the land vacant in Hyderabad, with out generation of any income and allowing the same to go into the hands of land-grabbers, the trust wanted to utilize the vacant land to promote housing activity in Hyderabad and at the same time it could generate Corpus fund to promote the spiritual & Social objectives of the trust. For that purpose the trust had made an application to the charity Commissioner of Maharashtra.

The Charity Commissioner, Maharashtra in his orders dt.30.12.91 observed that " in short the point of absolute necessity to dispose of the properties at Hyderabad has been clearly made not and it is accepted." Subsequently declarant trust has filed declaration before the Special Officer, Urban Land Ceiling and it was cleared U/s19 of the Act.

Later the Trust has filed an application U/s 20(0)of the act seeking permission for transfer of the Trust property held at Hyderabad, in Pursuance of Charity Commissioner's orders.

The Charity Commissioner, Maharashtra State, after having satisfied himself with regard to the bonafide activities of the Trust and its genuine problems being faced in safeguarding the Trust property at Hyderabad, had granted permission for sale of the Trust property.

In the light of above facts, keeping in view the above W.A direction, No prosecution could be launched against the trust, as the trust has not so far alienated the property situated at Begumpet. The problems faced by the trust in the hands of land-grabbers may be kept in view, and the exemption application filed by the trust U/s.20(i) may please be considered and disposed of as the Corpus fund generated by the trust is being utilized for the cause of social upliftment .

Yours faithfully,



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

Enclosures:

- (1). Orders issued in W.A.453 of 2000.
- (2). Explanation submitted in response to Show-Cause notice.
- (3). A copy of the Exemption application filed on 2-10-98.
- (4). Proceedings of the Charity Commissioner, Maharashtra, dt 30-12-97. *WV*
- (5). Exemption granted under I.T. act U/s.80G.
- (6). Profile of the Trust.

Advance copy to : The Principal Secretary to Govt. Revenue(UCII) Dept.,
A.P. Secretariat.
