APHC010590262022

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3330]**
(Special Original Jurisdiction)

FRIDAY,THE NINETEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION NO: 35587/2022

Between:

1. CHINTA KRISHNAKANTH, S/O. VENKATA SESHAGIRIRAO, AGED ABOUT 42 YEARS, OCC- CULTIVATION, R/O. D.NO.7/313, GODUGUPET, MACHILIPATNAM, KRISHNA DISTRICT.

...PETITIONER

AND

1. STATE OF ANDHRA PRADESH, REP.BY ITS PRINCIPAL SECRETARY - ENDOWMENTS, SECRETARIAT, AMARAVATHI AT VELAGAPUDI, GUNTUR DISTRICT.
2. THE ASSISTANT COMMISSIONER, ENDOWMENTS, NTR DISTRICT, VIJAYAWADA.
3. SRI UMAMAHESWARA VENUGOPALAVENKATACHALA SWAMY VARI DEVASTHANAM, KANKATAVA VILLAGE, GUDURU MANDAL, KRISHNA DISTRICT, REP. BY ITS MANAGER.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the 2nd respondent in issuing the proceedings in R.Dis.No.A2/E.No.344338/2018.ADM, dated 5.7.2018 amending the certificate granted under section 43(10) of the Act in R.Dis.No.A2/8239/2006-1, dated 20.10.2006 by adding the lands of the

petitioner admeasuring Ac.0-65 cents in Sy.No.294/1 and Ac.1-04 cents in Sy.No.295/6 respectively totaling Ac.1-69 cents situated at Kankatava village, Guduru Mandal, Krishna District without issuing notice to the petitioner or without conducting proper enquiry as contemplated U/sec. 43(10) of AP Charitable and Hindu Religious Institutions and Endowments Act, 1987 as illegal, arbitrary and violation of Art.14, 21, 86 and 300 of Constitution of India and consequently set aside the same and pass

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim suspension of the proceedings in R.Dis.No.A2/E.No.344338/2018.ADM, dated 5.7.2018 amending the certificate granted under section 43 of the Act in adding the lands of the petitioner admeasuring Ac.0-65 cents in Sy.No.294/1 and Ac.1-04 cents in Sy.No.295/6 respectively totaling Ac.1-69 cents situated at Kankatava village, Guduru Mandal, Krishna District without issuing notice to the petitioner or without conducting proper enquiry as contemplated U/sec. 43(10) of AP Charitable and Hindu Religious Institutions and Endowments Act, 1987, pending disposal of the above writ petition, and pass

Counsel for the Petitioner:

1. B V ANJANEYULU

Counsel for the Respondent(S):

1. GP FOR ENDOWMENTS
2. PULIPATI RADHIKA

The Court made the following:

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No.35587 of 2022

ORDER:

The present Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:

> *"…*to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the 2nd respondent in issuing the proceedings in R.Dis.No.A2/E.No.344338/2018.ADM, dated 05.07.2018 amending the certificate granted under section 43(10) of the Act in R.Dis.No.A2/8239/2006-1, dated 20.10.2006 by adding the lands of the petitioner admeasuring Ac.0-65 cents in Sy.No.294/1 and Ac.1-04 cents in Sy.No.295/6 respectively totaling Ac.1-69 cents situated at Kankatava village, Guduru Mandal, Krishna District, without issuing notice to the petitioner or without conducting proper enquiry as contemplated U/Sec.43(10) of AP Charitable and Hindu Religious Institutions and Endowments Act, 1987 as illegal, arbitrary and violation of Art.14, 21, 86 and 300 of Constitution of India and consequently set aside the same and pass such other order or orders.…"

2. Heard Sri B.V.Anjaneyulu, learned counsel for the petitioner, Ms.K.Ujwala Devi, learned Assistant Government Pleader appearing on behalf of respondent Nos.1 and 2 and Ms.P.Radhika, learned Standing Counsel for respondent No.3.

3. This Writ Petition was initially listed before this Court on 16.06.2026. On that day, learned counsel for the petitioner stated that the issue pertaining to the present Writ Petition is covered by order dated 27.07.2021 in W.P.No.12258 of 2021 and requested to pass a similar order, as the relief in both the writ petitions is identical. Learned Assistant Government Pleader

appearing for respondent Nos.1 and 2 requested time to go through the order dated 27.07.2021 in W.P.No.12258 of 2021 and to secure instructions. Accordingly, this Court directed to list this matter today i.e., on 19.06.2026 under the caption 'for orders'.

4. Today, when the matter is taken up for hearing, learned counsel appearing on behalf of respondent Nos.1 and 2 requested further time to secure instructions.

5. Be that as it may, learned counsel for respondent No.3 has fairly admitted that the issue pertaining to the present Writ Petition and the issue in W.P.No.12258 of 2021 are identical.

6. The present Writ Petition is filed challenging the action of the respondents in issuing the proceedings in R.Dis.No.A2/E.No.344338/2018. ADM, dated 05.07.2018, amending the certificate granted under Section 43(10) of The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act No.30 of 1987) in R.Dis.No.A2/8239/2006-1 dated 20.10.2006, by adding the lands of the petitioner admeasuring Ac.0.65 cents in Sy.No.294/1 and Ac.1.04 cents in Sy.No.295/6 respectively totaling A.1.69 cents situated at Kankatava Village, Guduru Mandal, Krishna District, without conducting proper enquiry as contemplated under Section 43(10) of the Act No.30 of 1987.

7. Despite lapse of three years, no counter-affidavit has been filed.

8. The 2nd respondent-Assistant Commissioner, Endowments, included the land in Sy.No.294/1 to an extent of Ac.0.65 cents and Ac.1.04 cents in

Sy.No.295/6, on the application/letter filed under Section 43(10) of the Act No.30 of 1987 by the 3rd respondent-Manager, Sri Umamaheswara Venugopalavenkatachala Swamy Temple, Guduru Mandal, Krishna District. The said order dated 05.07.2018 was impugned in the present writ petition on the ground that a procedure is outlined in Section 43(10) of the Act No.30 of 1987 to add or alter the law under the Act No.30 of 1987. The respondent is obligated to issue notice under Section 43(5) of the Act No.30 of 1987 and to conduct a proper enquiry before adding the land as endowed land. Circumventing the said procedure, as outlined under Section 43(5) and (10) of the Act No.30 of 1987, the subject land was added as endowed land and placed reliance on the order passed in W.P.No.12258 of 2021 dated 27.07.2021. Hence, prayed to set aside the impugned order dated 05.07.2018.

9. Before adverting to the merits of the case, the relevant provisions are extracted hereunder for effective disposal of the writ petition. Section 43(5) and Section 43(10) of the Act No.30 of 1987 reads as follows:

> "Section 43(5): On receipt of the application, the Assistant Commissioner shall, after making such enquiry as he thinks fit and hearing any person having interest in the institution or endowment, pass an order directing its registration and grant to the trustee or other person a certificate of registration containing the particulars furnished in the application with the alterations, if any, made by him as a result of his enquiry.
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> Section 43(10):-The trustee or other person incharge of the management of an institution or endowment or his authorized agent shall report to the Assistant Commissioner every year the alterations, omissions or additions in the particulars, relating to the institution or endowment and shall also send to him once in three years the certificate of registration granted to him under sub-section (5) or sub-section (9) together with a statement of such alterations, omissions or additions as may be necessary to the said certificate and the Assistant Commissioner shall thereupon make such enquiry as he deems fit and amend the

> certificate wherever necessary and return it to such trustee or other person and shall also take necessary amendments in this regard in the register maintained by him under sub-section (6). A copy of such amendments shall be furnished to the Deputy Commissioner having jurisdiction and another copy to the Commissioner."

10. A Co-ordinate Bench of this Court in W.P.No.12258 of 2021 *vide* order dated 27.07.2021, held that inclusion of the property in the register maintained under Section 43 of the Act No.30 of 1987 is allowable only after giving notice to the affected parties and considering the objections raised by the affected/ interested parties, as outlined under Section 43(10) of the Act 30 of 1987.

11. After reviewing the impugned order carefully, this Court found that the procedure as envisaged under Section 43(10) of the Act No.30 of 1987 has not been followed to declare the writ petitioner as encroacher under Section 43 of the Act 30 of 1987. Hence, the impugned proceeding dated 05.07.2018 is hereby set aside and the 2nd respondent is directed to follow the procedure as outlined under Section 43(5) and Section 43(10) of the Act No.30 of 1987 and pass appropriate orders in accordance with law.

12. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs.

As a sequel thereto, interlocutory applications pending if any, shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 19.06.2026
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