

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 16503 of 2015

Date : 05-10-2015

Between :

S Venkateshwara Rao S/o Nageswara rao

R/o Mukkollu village, Guduru mandal,

Krishna district

Petitioner

And

State of A P

Rep by its Principal Secretary, Endowments Department,

Secretariat, Hyderabad and others

Respondents

The Court made the following:

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ORAL ORDER:

Petitioner is resident of Mukkollu village. Petitioner is aggrieved by the decision of the respondent authorities to undertake reconstruction of Mahankali temple in Mukkollu village. This writ petition is filed praying to declare the decision of the respondents to demolish the existing temple and to reconstruct as illegal.

2. Petitioner claims to be a donor and his fore-fathers are Dharmadhikaries of Mahankali temple in Mukkollu village. According to petitioner, subject temple is one of the oldest temples and the people of the village and the surrounding villages believe that the Goddess has wide powers. Earlier, temple was in a dilapidated condition and with contributions given by the villagers, about 10 years back temple was renovated and reopened for public and temple premises is in good condition.

3. This Court by order dated 15.6.2015 directed maintenance of status quo as on that date. Praying to vacate the said interim order, W V M P No. 1858 of 2015 is filed by third respondent.

4. Heard learned counsel for petitioner and learned standing counsel for third respondent temple and with their consent, the writ petition is disposed of finally at

the admission stage.

5. Learned counsel for petitioner contended that there was no resolution passed by the Gram Panchayat and no consent of the villagers was obtained before demolition of the temple. Due to personal interests of some individuals and in collusion with officials of the Endowments Department, reconstruction and renovation of the temple is taken up by spending huge public money. When there is no such requirement and temple is in good shape and devotees have been performing poojas without any inconvenience, there is no justification to undertake reconstruction of the temple. Learned counsel further contended that even according to the proposal submitted to the Commissioner of Endowments and permission granted by Commissioner Endowments what is required to be done is only improvement of the temple infrastructure and not the reconstruction, whereas contrary to the orders of the Commissioner, existing temple is sought to be demolished and new temple is proposed for construction, which is ex-facie illegal.

6. Learned counsel further contended that idol of the deity is sought to be removed from the sanctum sanctorum of the temple, which cannot be done. It is further contended that even assuming that the temple authorities are entitled for reconstruction of the temple, it is mandatory to follow the Agamashastra and Shilpashastra and without proper supervision by the Shilpies of the department, reconstruction cannot be done by a private contractor. On account of illegal decisions taken by the respondents, the sentiments and beliefs of villagers are affected and villagers fear that Goddess Mahankali would be furious and may result in deleterious consequences.

7. Learned standing counsel submits that subject temple is old temple constructed more than 80 years back. The structure of the temple is in dilapidated condition and having regard to the condition of the temple, the Executive Officer of the temple has sent a letter dated 23.11.2013 to the Assistant Commissioner, Endowments, requesting for reconstruction of the temple. According to the assessment made by the Engineering wing of the Endowments department, the total cost of renovation and reconstruction was estimated as Rs.40 lakhs. Proposals were accordingly sent and Commissioner, Endowments passed orders for reconstruction of the temple. After following due procedure contract was awarded. The contractor has undertaken the work of demolition of the temple as per the work entrusted to him.

8. Learned standing counsel submitted that 15 years back only maintenance repairs were taken up for protection of walls and mandapam and that temple is in dilapidated condition requiring reconstruction. She further contended that petitioner is only harping on different words used in the correspondence i.e., some times as 'renovation', some times as 'improvement' and some times as 'reconstruction' but if entire record is seen, the proposals sent were for the purpose of reconstruction and renovation of the temple, which is in dilapidated condition. Learned standing counsel further submitted that Sarpanch of the Gram Panchayat addressed letter enclosing signatures of several villagers requesting for reconstruction of the temple. Petitioner herein is also one of the signatories to the said representation. Petitioner though a signatory to the request for 'reconstruction', to advance his personal interests, turned around and challenged the very process and on account of the interim orders granted by this Court after substantial work of demolition of the temple was made further work was stopped causing lot of inconvenience to the devotees to perform pooja to deity.

9. The main plank of challenge on the decisions of respondent authorities is on the ground that there is no need to reconstruct the temple. Petitioner is trying to take millage out of different words used in the correspondence and various proceedings such as 'reconstruction', 'renovation', 'improvements', etc., to contend that the decision taken was to undertake repairs and not reconstruction. According to learned counsel for petitioner, what was required to be done was 'renovation' and there is no need for 'reconstruction'. However, no material is brought on record to show that the temple was in good shape. Detailed proposals for reconstruction of the temple were scrutinized at various levels before decision was taken. After obtaining necessary sanction for incurring expenditure, process of reconstruction was taken up. It is not a case where overnight some overzealous officer took decision to reconstruct the temple. The correspondence suggests that there is need to reconstruct the temple, but different words are used, without realizing the impact of such words and it shows ignorance and inexperience of the officers. In the background of the entire issue, much weight need not be given to the different words used in different correspondence/ proceedings. I therefore see no merit in the contention of the learned counsel for petitioner.

10. The original record is produced by learned standing counsel, which discloses that signatures of the petitioner and others were appended to the

representation written by the Sarpanch of the Grampanchayat requesting for reconstruction of the temple. The allegation of the respondents that petitioner is also one of the signatory to the representation for reconstruction, is not denied but learned counsel for petitioner sought to justify the present litigation, contending that said signature was obtained for some other purpose and utilized for this purpose. However, no material is filed to support the said contention. The purpose for which petitioner has signed is not stated. There appears to be no protest from any other person who is a signatory to such request. Having made a request to reconstruct the temple, petitioner cannot turn around and contend otherwise.

11. It was forcefully contended that respondent authorities have not followed proper procedure in awarding the contract. The material brought on record by the respondents would show that e-procurement method was followed and contractor was selected after following the due procedure and as per the bids offered by the participants. Therefore, there is no illegality committed in awarding the contract.

12. Having regard to the apprehensions expressed by learned counsel for petitioner, the respondent authorities are directed to ensure that while undertaking reconstruction of the temple, the Agamashastra and Shilpashastra are strictly followed and there should be supervision by authorized Shilpy of Department. The authorities are directed to explore the possibility of not disturbing the deity and make suitable provision for performance of daily rituals without obstruction. If there is a necessity to relocate the deity in the process of reconstruction, such relocation should be done with the able advise, guidance and supervision of Agamashastra Pandits. Having regard to the fact that the demolition work was already taken up, it is necessary for the respondent authorities to ensure that reconstruction of the temple is taken up within a strict time schedule and within the shortest possible time entire work should be completed.

The writ petition is accordingly disposed of. Having regard to the same, miscellaneous petitions, if any pending, are closed. No order as to costs.

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P NAVEEN RAO,J

DATE:05-10-2015

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HONOURABLE SRI JUSTICE P. NAVEEN RAO

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