

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT

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WRIT APPEAL No. 572 OF 2015

Date: 09.07.2015

Between:

Paritala Rathamma

... Appellant

And

The Deputy Commissioner of Endowments,
Guntur District, Guntur & others.

... Respondents

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT**

WRIT APPEAL No. 572 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order, dated 10.06.2015, passed in W.P.No.16194 of 2015, whereby writ petition filed by the appellant has been dismissed.

In the writ petition, the appellant sought declaration that O.A.No.4 of 2014 on the file of Deputy Commissioner of Endowments, Guntur (1st respondent) is not maintainable in view of clear language employed in Section 133 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, "the Act").

Appellant is the wife of one late Ramanaiah, who was appointed as Managing Trustee of the 2nd respondent trust. He died on 16.04.2011. It is the case of the 2nd respondent that entire record was in custody of the appellant's husband and since it was not handed over to the trust, original application under Section 133 of the Act was filed.

Sri N. Guru Gopal, learned counsel for the appellant, vehemently submitted that original application is not maintainable for more than one ground. Firstly, he submitted that along with the appellant's husband two other persons were also trustees and they are not added as party to the original application and secondly, he submitted that having regard to the language of Section 133, original application against the legal

representatives of the deceased – Managing Trustee is not maintainable.

We have perused the provisions of Section 133, in particular, sub-section (2)(a). Sub-section (2)(a) states that where the successor is resisted or prevented from obtaining the possession of the records, accounts or properties of the institution or endowment by such ex-office-holder or any person claiming or deriving title from him or any person, who is otherwise not entitled to be in such possession, any Magistrate having jurisdiction on application made by the successor or Executive Officer direct delivery of possession of such records.

Insofar as the appellant is concerned, she definitely falls in the category of “any person, who is otherwise not entitled to be in possession of such record”. Learned Judge has rightly considered and appreciated the provisions of the Act in the light of the facts of the case. We are not inclined to interfere with the impugned order.

Hence, the appeal is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Date: 09.07.2015
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