

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

A.S.No.2009 OF 1995

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%29.07.2015

Duvvuri Rama Krishna Rao Trust

.. Appellant(s)

And

The Deputy Commissioner, Endowments Department and another.

.. Respondent(s)

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> HEAD NOTE:

!Counsel for Appellant: Sri Ch.Dhanamjaya

^Counsel for Respondents:

? Cases referred

^[1] AIR 1957SC 133

^[1] 2 AIR 1995 SC 167

³ AIR 1967 SC 256

^[1] 4 AIR 1976 SC 871

⁵ 1983(2) APLJ 276

6 AIR 1973 SC 1638

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IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

-
For the State of Telangana and the State of Andhra Pradesh

MAIN CASE NO: A.S.No.2009 OF 1995

Between:

Duvvuri Rama Krishna Rao Trust

.. Appellant(s)

And

The Deputy Commissioner, Endowments Department and another.

.. Respondent(s)

DATE OF JUDGMENT PRONOUNCED: 29.07.2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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|---|--------|
| 1. Whether Reporters of Local news papers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

A.S.No.2009 OF 1995

JUDGMENT :

The unsuccessful plaintiff in O.S.No.1 of 1985 on the file of the I Additional District Judge, Rajahmundry, preferred this appeal challenging the decree and judgment, dated 31.07.1995 wherein the order dated 16.02.1984 passed by the Deputy Commissioner, Endowments in O.A.No.110 of 1981 was confirmed.

2. The ranks given to the parties in O.S.No.1 of 1985 before the trial Court will be adopted through out this judgment.

3. The plaintiff trust filed the suit seeking relief of setting aside the order passed on 16.02.1984 in O.A.No.110 of 1981, consequently declaring it as private and personal trust, alleging that the trust came into existence on 30.04.1971, on which date Duvvuri Ramakrishna Rao expired, by virtue of the registered will (Ex.A.1) executed by him. As per the wishes of testator under Ex.A.1 bequeathing all his property, created plaintiff trust with avowed object of gathering and feasting of trustees and friends with families on the anniversary days of the donor's father and mother, his own and on his birthday, doing Godanam on the anniversary day of his father, presentation of religious books to deserving pundits on the birthday, adding additional books to the library and to do pilgrimage

to Badari for his sake which is to be done by one of the trustees.

4. The annual income of the trust is about Rs.10,000/- and the accounts are being submitted to the District Court, Rajahmundry, in O.P.No.122 of 1972.

5. As per the terms of the Will, trust should be merged or affiliated or managed by any one of the persons or body and that no one else should have any right to interfere with its administration, except the trustees. The donor conferred full powers to the trustees to manage the trust as per the terms of Will-Ex.A.1. According to the trust deed, the trust is created by Sri Ramakrishna Rao and also according to his express wishes, the trust is entirely a private one, un-connected with any other. The objects of the trust are more personal in nature than benefiting the members of the public. According to the terms of the Will-Ex.A.1, the trustees have to perform certain religious acts and ceremonies on specific dates and these have no reference at all to any member of the public. Opening of donor's library to the public is only an extension of the desired object of observing religious ceremonies and promoting Sanskrit knowledge and research by the trustees and cannot be understood as conferring right on any member of the public in this behalf. Despite the established facts in terms of Ex.A.1-Will, the 2nd defendant registered the trust on 05.12.1974 as public trust. The plaintiff has been making appropriate representations to the authorities concerned to treat the trust as a private trust. However, a petition was filed before the Deputy Commissioner, Endowments and the same was registered as O.A.No.110 of 1981 under Section 77 of A.P. Charitable and Hindu Religious Institutions and Endowments Act (for short 'the Act 17 of 1966).

6. After keen contest of the matter, the Deputy Commissioner, Kakinada, pronounced the order on 17.04.1984 dismissing O.A. upholding that the trust is a public trust. The said order is not in accordance with law and the Deputy Commissioner did not look into the object of testator under Ex.A.1 and committed an error in dismissing O.A.No110 of 1981. Therefore, requested the trial Court to look into the terms of Will and nature of trust with specific objects for creating trust. Finally, prayed to set aside the order dated 17.04.1984 in O.A.No.110 of 1981 declaring the plaintiff as private trust.

7. The 1st defendant resisted the claim by filing written statement denying material allegations, *inter alia*, contending that as per the terms of the Will the beneficiaries are a particular class, namely, deserving students and pundits, opening of donor's library to public even by adding additional books to it, propagation of Vedic culture etc. The fact that uncertain and fluctuating body of persons is a section of public which are defined in a class, amounts to creation of public trust, but not a private trust. It cannot be said that the beneficiaries are only a particular individual and they are a class as such. Therefore, the trust created by Duvvuri Ramakrishna Rao under Ex.A.1 is only a public trust, but not a private trust, as the beneficiaries described by the testator under Ex.A.1 is quite large section of public which is unascertainable. Therefore, the order of the Deputy Commissioner in O.A.No.110 of 1981 cannot be set aside and it binds the plaintiff. By any stretch of imagination, it cannot be construed that the provisions of the Act will not applicable to the institution, since the donor mentioned at page 8 of the Will-Ex.A.1 that the activities of the trust are charitable in nature. The plaintiff voluntarily filed an application under Section 38 of the Act

17 of 1966 before the Assistant Commissioner, Endowments Department, Rajahmundry, for registration and accordingly, the same was registered as Public Charitable Trust on 05.12.1974. Neither the plaintiff nor any one questioned the validity of registration, under Section 40(1) of the Act, registration of the trust becomes final. Therefore, the conduct of the plaintiff trust clinchingly established that the registration was done on its own accord.

8. In view of the registration of the trust under Section 38 of the Act, the plaintiff is estopped from contending that it is a private trust.

9. After registration of the trust as public trust under Section 38 of the Act, a notification was issued by the Commissioner of Endowments under Section 6(c)(i) of the Act vide R.C.No.J2/13964/72, dated 10.04.1972. The contention that the plaintiff trust is only private trust and not a public trust is not sustainable under law. As a matter of fact, presentation of religious books to deserving students and pundits and opening of the donor's library, adding additional books to the library and propagation of Vedic culture would undoubtedly confer rights on the public and therefore, the beneficiaries are wide and vast section of public at large and consequently, the trust cannot be said to be a private trust and it is a public trust. Therefore, the order, dated 16.02.1984, passed by the Deputy Commissioner in O.A.No.110 of 1981 is in accordance with law and prayed to dismiss the suit.

10. The 2nd defendant filed memo adopting the written statement filed by the 1st defendant.

11. Basing on the above pleadings, the trial Court framed the

following issues:

- a) *Whether the plaintiff trust is a private one?*
- b) *Whether the registration of Trust under Section 38 of the Hindu Religious Charitable Endowments Act was done?*
- c) *Whether order of the Deputy Commissioner in O.A.No.110 of 1981 is liable to be set aside?*
- d) *Whether the plaintiff is entitled to the declaration prayed for?*
- e) *To what relief?*

(extracted)

12. On 21.04.1994, the trial Court also framed the following additional issue:

“Whether the plaintiff is estopped from contending that the plaintiff trust is a private trust in view of the registration of the trust under Section 38 of the Act 17 of 1966?”

13. During the course of trial, on behalf of the plaintiff, P.Subbarayudu was examined as PW.1 and marked Exs.A.1 to A3. On behalf of the defendants M.Satyanarayana was examined as DW.1 and marked Exs.B1. and B.2.

14. Upon hearing argument of both counsel, considering oral and documentary evidence on record, the trial Court upheld the order dated 16.02.1984 passed by the Deputy Commissioner, Endowments-1st defendant in O.A.No.110 of 1981 and dismissed the suit.

a) Aggrieved by the decree and judgment of the trial Court, the unsuccessful plaintiff preferred the present appeal raising various contentions mainly contending that the trial Court did not appreciate the recitals of Ex.A.1-Will in proper perspective, so also the object of creation of trust and wish of the testator under Ex.A.1-Will. The

trust can be said to be a private trust and not a public trust. But the trial Court committed an error in holding that it is a public trust.

b) Appointing pundit belonging to Krishna Yajur Veda and honouring him befittingly; presentation of book to any pundit or Vidyarthi once in a year on the full moon day in the month of Ashada; presenting a cow on the full moon day in the month of Karthik; feast to the trustees on four occasions in a year indicate that the trust is purely a private trust. Therefore, the object of creation of trust cannot be said to be public in nature. But the trial Court on erroneous appreciation committed an error in dismissing the suit. It is further contended that the word researcher in Sanskrit is only for limited purpose of access to the library by researchers in Sanskrit. Therefore, it cannot be said to be a public library. But the trial Court on erroneous appreciation dismissed the suit and therefore, the plaintiff prayed to reappraise the entire evidence afresh and pass a decree in favour of the plaintiff setting aside the decree and judgment under challenge in O.S.No.1 of 1985 on the file of the I Additional District Judge, Rajahmundry.

15. During the course of arguments, Sri V.V.S.Kameshwara Rao, counsel for the appellant/plaintiff drawn the attention of this Court on various recitals of Ex.A.1-Will to find out the avowed object of creation of trust and ceremonies to be celebrated by the trustees, more particularly, annual death ceremony of parents and birth and death ceremony of Duvvuri Ramakrishna Rao, who created the trust and also presentation of cow on Karthika Poornima. So also presentation of books is purely private in nature and merely because the library is open to public, it cannot be said to be a public library since the access is limited to research scholars, but the trial Court did not consider the object of trust.

16. Finally, it is contended that the registration under Section 38 of the Act 17 of 1966 is only on account of issue of notice by the 2nd respondent directing the plaintiff to get the trust registered and it is not voluntarily. Therefore, the registration of trust under Section 38 of the Act is not sufficient to hold that it is a public trust and prayed to set aside the order passed by the trial Court in O.S.No.1 of 1985 and pass a decree declaring that the plaintiff is a private trust.

17. Learned Government Pleader for Endowments did not represent the matter and advanced no arguments.

18. Considering the contentions of the learned counsel for the appellant/plaintiff and oral and documentary evidence available on record including the judgment and decree under challenge, the sole point that arises for consideration is:

“Whether the plaintiff trust is a public or private trust and if it is a private trust whether the order dated 16.02.1984 passed by the 1st defendant in O.A.No.110 of 1981 be set aside?”

POINT:

19. The undisputed facts are that Duvvuri Ramakrishna Rao executed Ex.A.1-will creating plaintiff trust in the name and style of Duvvuri Ramakrishna Rao Trust and it is represented by its Secretary. The trust was created for various purposes. The following are the objects of the trust.

1. *gathering and feasting of trustees and friends with families on the anniversary day of donors, beloved father, mother and his own and on his birthday, Godanam on the anniversary day of his father.*
2. *Presenting of religious books to deserving pundits on the birthday of Duvvuri Ramakrishna Rao.*

3. *Adding books to the library.*
4. *to undertake pilgrimage to Badri for his sake.*
5. *The trustees have to establish a library with the books belonging to him pertaining to Vedas, Vaidya Sastra in the resident of testator himself and its research library should be kept open.*
6. *The trustees have to purchase books worth Rs.200/- every year and add those books to the library.*

20. Most important condition is No.7 at page 11 of Ex.A.1. According to it, the trustees have to establish library with the books belonging to the said Duvvuri Ramakrishna Rao, pertaining to Vedas and Vaidhya Sastra and it shall be kept open for researchers in Sanskrit. The researchers in Sanskrit are not an ascertained group and the researchers may contain any number. Therefore, the nature of the trust has to be ascertained from its objects and the purposes. According to Section 2(4) of the A.P. Act 17 of 1966 'charitable institution' means:

"any establishment, undertaking, organization or association formed for a charitable purpose and includes a specific endowment. Section 2(5) defined the word 'charitable purpose' which includes relief of poverty or distress; education; medical relief; and advancement of any other object of utility or welfare to the general public or a section thereof, not being an object of an exclusively religious nature."

21. Here the trust was created directing the trustees to establish library with the testator's Vedic books and Vaidhya books, which are in his residence, permitting access to all research scholars in Sanskrit and it shall be kept open. The entry is not restricted to any one either expressly or impliedly into the library. Therefore, opening of a library for research scholars in Sanskrit is for advancing or for the welfare of the Sanskrit scholars, who are conducting research in Sanskrit. It is covered by Section 2(5)(d) of

the Act 17 of 1966.

22. A.P. Act 17 of 1966 did not lay down any tests to determine whether a trust is a public trust or private trust. The Supreme Court in **Deoki Nandan v. Murlidhar and others**^[1] in para 5 of the judgment laid down certain tests and held as follows:

“The distinction between a private and a public trust is that whereas in the former the beneficiaries are specific individuals, in the latter they are the general public or a class thereof. While in the former the beneficiaries are persons who are ascertained or capable of being ascertained, in latter they constitute a body which is incapable of ascertainment. A religious endowment must, therefore, be held to be private or public according as the beneficiaries there under are specific persons or the general public or sections thereof.”

23. Later judgment in **Bala Shaktar Maha Shankar Bhattjee and others v. Charity Commissioner, Gujarat State**^[2] wherein the Apex Court laid down certain tests to determine whether a trust is public or private, relying on **Deoki Nandan’s case (1st supra)**.

24. A similar question came up before the Apex Court in **Mahant Shri Srinivas Ramanuj Das v. Surjanarayan Das and another**^[3] wherein it was held as follows:

“An institution which comes within the definition of ‘math’ in Section 6(7) of the Orissa Hindu Religious Endowments Act is also a ‘Hindu public religious endowment’ within the meaning of Section 6(12) and is, therefore, subject to the provisions of the Act. Where the spiritual preceptor, his disciples and disciples in succession are the persons interested in such a math and gift of properties are made to the math though in the name of the Mahant, such a math is a public one.

When the premises of a math are used both for secular and religious purposes, under explanation to

*Section 6(12), it is clear that it is not only deemed to be a religious endowment but is deemed to be a Hindu public religious endowment to which the Act applies. It follows that an institution which comes within the definition of 'math' ipso facto comes within the expression 'Hindu public religious endowment' and therefore, becomes subject to the provisions of the Act. **The beneficiaries of a math are the members of the fraternity to which the math belongs and the persons of the faith to which the spiritual head of the math belongs and constitute, therefore, at least a section of the public.** Maths in general, consequently are public maths. When the persons interested in a math are not any particular family, the spiritual preceptor of the math consisting of his disciples, and the disciples in succession cannot be deemed to be such a private family for whose benefit the math is founded. The body of disciples and disciples' disciples is a very unascertainable body and hence such a math is not a private math. Further, when gifts of properties have been made to the math for the enjoyment of chelas, sishyas and anusishyas, though ostensibly in the name of the Mahant, the Mahant holds the properties as a trustee for the indeterminate class of beneficiaries, viz., of sishyas and anusishyas and this stamps the math with a public character."*

25. In the facts of the present case the beneficiaries are unascertained group of Sanskrit researchers. Therefore, by applying principle laid down under the above decision, it is a public trust.

26. In **Dhaneshwarbuwa Guru Purshottambuwa owner of Shri Vithal Rukhamai Sansthan v. The Charity Commissioner, State of Bombay**^[4], the Apex Court while considering the Bombay Public Trust Act, which defined the public trust and laid down certain tests to determine whether a trust is a public or private trust, held as follows:

"It is not always possible to have all the features of

a public trust in a given case. Even some of the tests laid down by Supreme Court may, in a given case, be sufficient to enable the court to come to a conclusion about the character of the trust.

When the origin of an endowment is obscure and no direct oral evidence is available, the Court will have to resolve the controversy about the character of the trust on documentary evidence, if any, the object and purpose for which the trust was created, the consistent manner in which the property has been dealt with or managed by those in charge, the manner in which the property has long been used by the public, the contribution of the public, to all intents and purpose, as a matter of right without the least interference or restriction from the temple authorities, to foster maintenance of the worship, the accretion to the trust property by way of grants from the State or gifts from outsiders inconsistent with the private nature of the trust, the nature of devolution of the property, are all important elements in determination of the question whether a property is a private or a public religious endowment.”

27. Here also except receipt of public contributions, the other objects of the trust in question are identical to the facts of the above judgment. If the principles laid down in the above judgment are applied to the present facts of the case, establishing library with the books of Duvvuri Ramakrishna Rao, testator under Ex.A.1-Will, relating to Vedas and Vaidya Sastras and keeping it open to public, who are conducting research in Sanskrit, which is an unascertained group or class, can be said to be a public charitable trust.

28. In **Rajasekharan and others v. M/s Paramartha Bhushanam Nathella Sampathu Chetty, Charities, rep. by Nathella Narayana Gupta**^[5], this Court in para 9 of the judgment held as follows:

“In this case the objects of the trust leave no doubt that the beneficiaries are not exclusively persons belonging to the Hindu Community or a class thereof.

Having regard to the objects of the trust, there is nothing to indicate that it was exclusively Hindu in character. The mere circumstances that one of the objects of the trust was also to feed Brahmins during Brahmotsvam time at the Tirupati Pilgrim Centre does not necessarily make the Charitable endowment exclusively Hindu in character and finally held that, the objects of the trust is relevant consideration to decide whether a particular institution is private Charitable institution or public charitable institution.”

29. In another judgment in **Tilkayat Shri Govindlalji Maharaj etc., v. State of Rajasthan and others** ^[6], the Apex Court at para 23 held as follows:

“Where evidence in regard to the foundation of the temple is not clearly available, sometimes, judicial decisions rely on certain other facts which are treated as relevant. Is the temple built in such an imposing manner that it may prima facie appear to be a public temple ? The appearance of the temple of course cannot be a decisive factor; at best it may be a relevant factor. Are the members of the public entitled to an entry in the temple ? Are they entitled to take part in offering service and taking Darshan in the temple ? Are the members of the public entitled to take part in the festivals and ceremonies arranged in the temple? Are their offerings accepted as a matter of right? The participation of the members of the public in the Darshan in the temple and in the daily Acts of worship or in the celebrations of festival occasions may be a very important factor to consider in determining the character of the temple.”

30. From a reading of the principles laid down in the above decisions, it is clear that the public purpose or object of establishing a trust must be a charitable purpose. “Charitable purpose” is defined under Section 2(5) of the A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987. Charitable purpose

includes

- (a) *relief of poverty or distress*
- (b) *education*
- (c) *medical relief and*
- (d) *advancement of any other object of utility or welfare to the general public or a section thereof not being an object of an exclusively religious nature.*

31. In the instant case, the object of the trust is to provide access to the Sanskrit scholars, who are conducting research, and keeping library open for their research work can be said to be public purpose. If it is meant for specific group of persons or class of persons then it can be said to be a private trust. When it is created for the benefit of unspecified class of people, it can be said to be a public trust. Having regard to the object of trust, there is nothing to indicate that it was created exclusively for a specified group of persons. Mere circumstances that one of the objects of the trust was to celebrate death or birth anniversary of Duvvuri Ramakrishna Rao and his parents does not necessarily make a charitable endowment for a specified class, though, it is purely a personal in nature. Finally, the object of the trust is relevant consideration to decide whether a particular trust is a private or public institution.

32. In view of the judgment of this Court in **Rajasekharan's case (5th supra)**, in a similar situation came up for consideration before this Court, this Court held that if the object is to provide anything for a specified class of persons, it would be a private trust. In the facts of the above decision, the trust was created to feed Brahmins during Brahmotsavam time at Tirupathi Pilgrim Centre, but still the High Court held that the object is relevant consideration to decide whether a particular institution is a private charitable institution or public institution. The view expressed by the Apex Court in

Tilkayat Shri Govindlalji Maharaj's case (6th supra) has also to the same effect, wherein the Apex Court drawn distinction between the private trust and public trust. When the beneficiaries are unascertained or unspecified individuals and when the library is kept open without restricting entry by the public, it is difficult to conclude that the library is only for a class of individuals or an ascertained group of individuals. In the absence of any restriction of entry to the general public though it is established for the benefit of Sanskrit research scholars, which is again an unascertained group which can safely be proved that the trust is a public charitable trust as defined under Section 2(4) read with Clause (5) of the Act 17 of 1966.

33. In view of law declared by various courts, the following are the tests to determine whether a trust is private or public trust:

- (a) The objects of trust.
- (b) Beneficiaries are specific individual or group of public.
- (c) Whether entry is restricted to public.

34. Yet, the contention of the defendants before the trial Court and before this Court is that the trust itself voluntarily registered under Section 38 of the Act 17 of 1966 and thereafter it was notified under Section 6(1)(a) of the Act 17 of 1966. But no objections were filed questioning the declaration under Section 6(1)(c) of Act 17 of 1966 and consequently, registration became final.

35. Learned counsel for the appellant would submit that the registration was only at the instance of the 2nd defendant-Assistant Commissioner of Endowments, when he issued a notice calling upon the trust to get itself registered under Section 38 of the Act 17 of 1966. In fact, when PW.1 was examined before the trial Court, he simply denied everything and pleaded ignorance even applying

for registration and registration of the trust under Section 38 of the Act 17 of 1966. Therefore, if really any notice was issued by the 2nd defendant calling upon the plaintiff to apply for registration and get the trust registered under Section 38 of the Act 17 of 1966, there must be some evidence on record. But no such notice allegedly issued by the 2nd defendant is brought on record to accept the contention of the plaintiff. Even otherwise, this contention was not substantiated by adducing any oral evidence by PW.1. In the absence of any evidence on record, it is difficult to accept the contention that the registration was only at the instance of the 2nd defendant.

36. Undisputedly, the trust was registered under Section 38 and later a gazette publication under Section 6(1)(a) was issued by the Commissioner of Endowments, Hyderabad, but no objections were filed as contemplated under Section 40(1) of the Act 17 of 1966. Section 40 of the Act permits any person aggrieved by an entry or omission to make an entry in the register maintained under Section 38, may apply to the Deputy Commissioner for modification or annulment of such entry or for directing the making of such entry, as the case may be.

37. But here, no such objection was raised before the authorities' concerned and allowed to attain finality. Section 40(3) of the Act 17 of 1966 enables the Deputy Commissioner to enquire into and decide the question as if it was a dispute within the meaning of Section 77 of the Act. Here the plaintiff filed O.A.No.110 of 1981 to declare the trust as private trust, but the 1st defendant declined the relief on the ground that the trust was established for the public purpose and aggrieved by the said order, the suit was filed before the District Judge, Rajahmundry, who confirmed the same on the

ground that the purpose of establishing trust is only for the public at large and not for the benefit of ascertained group of public. If it is for the benefit of ascertained class or group of persons it can safely be held that it is a private trust. But, here the library was established for an unascertained group of Sanskrit pundits, who are conducting research in Sanskrit, and similarly presentation of books to Sanskrit pundits and students, who are the unascertained group entry into library is not restricted. Therefore, the plaintiff trust is only a public trust and not a private trust.

38. Even after re-appraisal of entire material available on record including the documentary and oral evidence, it is evident that the object of establishing trust under Ex.A.1-Will by Duvvuri Ramakrishna Rao is for benefit of public in general and not for any private individual or group of individuals. Therefore, the trial Court did commit no error in dismissing the suit holding that it is a public charitable trust within the meaning of Section 2(4) read with Clause (5) of the Act 17 of 1966 and the findings of the trial Court are free from any legal infirmity warranting interference of this Court. Hence, the finding of the trial Court is upheld holding that the plaintiff trust is a public trust. Accordingly, the point is answered in favour of the respondents/defendants and against the appellant/plaintiff.

39. In view of my foregoing discussion, I find no ground warranting interference with the judgment and decree, consequently the appeal is devoid of merits and deserved to be dismissed.

40. Accordingly, the appeal is dismissed confirming the judgment and decree, dated 31.07.1995, passed by the I Additional District Judge, Rajahmundry in O.S.No.1 of 1985 and the order, dated

16.02.1984, passed by the 1st defendant in O.A.No.110 of 1981.

41. Pending miscellaneous petitions in this appeal, if any, shall stand dismissed.

M.SATYANARAYANA MURTHY, J

Date: 29.07.2015
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HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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DATE: 29.07.2015

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[\[1\]](#) AIR 1957SC 133
[\[2\]](#) AIR 1995 SC 167
[\[3\]](#) AIR 1967 SC 256
[\[4\]](#) AIR 1976 SC 871
[\[5\]](#) 1983(2) APLJ 276
[\[6\]](#) AIR 1973 SC 1638