

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.1503 of 2009

Date: 17-08-2015

Between:

G. Subrahmanyam and another

.... Petitioners

AND

The Regional Joint Commissioner, Endowments
Department, Tirupathi and 3 others

.... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.1503 of 2009

ORDER:

This writ petition is filed for a mandamus declaring the proceedings Rc.No.A8/4476/2008, dated 02-12-2008 of the 2nd respondent as illegal arbitrary and for a consequential direction to set aside the same by directing the respondents to appoint the petitioners as Founder Trustees/Chairman of the 4th respondent temple and its specific endowment as per the provisions of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987.

2. The case of the petitioners is that their great grand father Sri Vedantham Sadasivendra Swamy is a Founder Trustee of Sadasiva Ramalingeswara Swamy Temple, Kunchavaram village, Pollipara Mandal, Guntur District-4th respondent and for performing annual functions of Kalyanam, he donated Ac.20.35 cents of land situated in Kunchavaram Agraharam by registered Will dated 16-09-1884 from

the date of which the petitioners' predecessors and themselves are continuing as Trustees/ Chairman of the Trust Board by rendering good and satisfactory service to the 4th respondent-temple. In the year 1928, when there was a dispute, the predecessors of the petitioners filed O.S.No.33 of 1928 and the same was disposed by decree and judgment dated 28-10-1932 in which the rights of the family members of a founder trustees was recognized. After coming into force of the Endowments Act, 1966, the 2nd petitioner filed an application before the 3rd respondent to recognize him and after conducting enquiry, the 3rd respondent issued orders through proceedings in A2 (1) 55556, dated 17-12-1981 recognizing the 2nd petitioner as Hereditary Trustee of Sri Sadasiva Ramalingeswara Swamy Temple-4th respondent and its specific endowments and thus from 1981 onwards, the 2nd petitioner continued as Hereditary Trustee and Chairman of the temple till 2006. In the year 1997, when the respondents wanted to appoint trustee, the 2nd petitioner filed an application to recognize him as Founder Trustee and the 3rd respondent, after thorough enquiry, passed orders in Rc.A2/2789/97, dated 15-05-1997 recognizing the petitioners as members of founders family of the temple as they donated the property to the temple, besides further recognizing the 2nd petitioner as member of the founder family. It is stated that in the year 1998 when the respondents are taking steps for appointment of Trust Board, the 1st petitioner filed an application to appoint him as a Founder Trustee and after conducting enquiry, the 3rd respondent passed orders in A2/2789/97-2, dated 22-04-1998 recognizing him as member of the founder family along with the 2nd petitioner and subsequently, the 1st respondent passed orders in Rc.No.A2/1871/98 Admn., dated 09-07-

1998 directing the petitioners to act as Chairman of Trust Board in rotation per year. Without following the procedure and without noticing the previous proceedings and without notice or enquiry, the 3rd respondent appointed Sri V. Chinna Basavaiah, P. Suryanarayana Sastry, K. Malleswari, M. Adishesu and Meda Yasoda as Board of Trustees ignoring the claims of the petitioners vide proceedings No.A2/13083/2005, dated 20-01-2006, which is illegal and opposed to proviso to Section 17 (1) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987. Challenging the said proceedings, the petitioners filed W.P.No.704 of 2007, and the same was disposed of directing to file a revision under Section 92 of the Act and thereafter, the petitioners filed revision before the 1st respondent with all material papers, but the 1st respondent passed a cryptic order without looking into the documents. Challenging the said orders dated 06-02-2008 in R.P.No.56 of 2007, the petitioners filed W.P.No.10407 of 2008 and the same was disposed of with a direction to the petitioners to submit an application to the 2nd respondent to appoint them as Founder Trustee/ Chairman, which may be considered by the 2nd respondent. The 2nd respondent issued proceedings in Rc.No.A8/4476/08, dated 02-12-2008 rejecting the representation of the petitioners. Aggrieved by the same, the present writ petition has been filed.

3. The 4th respondent-temple filed its counter denying the allegations of the petitioners and contending that the 4th respondent-temple was classified under Section 6 (c) of the Act 30 of 1987 and is under the purview and administrative control of the 3rd respondent-Assistant Commissioner. As per the judgment in O.S.No.33 of 1928, the management of the subject temple and its

endowments shall vest hereditarily in the family of Vedantham, but the petitioners are from Gatte family and even otherwise, the hereditary rights were abolished as per Act 30 of 1987, as such, the petitioners have to approach the Deputy Commissioner, Endowments Department under Section 87 (1) (b) of the Act for being declared as member of founder family and that the petitioners were functioning as trustees for the specific endowment lands given to the temple and not to the main temple. It is further stated that the 3rd respondent issued a notification calling for applications for appointment of Trust Board for the subject temple as per Section 15 of Act 30 of 1987 and after receipt of the applications and the antecedents, the 1st respondent constituted a Trust Board vide proceedings No.A2/13088/ 2005, dated 20-01-2006 consisting of five persons for a period of two years. Against constitution of the said Trust Board, the petitioners filed O.S.No.33 of 2006 before the Principal Senior Civil Judge, Tenali and the same was dismissed as withdrawn. The petitioners filed O.A.No.89 of 2008 under Section 87 (1)(h) of the Act before the 2nd respondent, who is Deputy Commissioner, Endowments Department, Guntur seeking a declaration that they are members of founder family of the temple and that on 05-08-2008 the petitioners filed memo in the said O.A. stating that they have already filed a memo on 13-06-2008 itself withdrawing the said O.A. and the said O.A. was withdrawn as per orders No.36, dated 05-08-2008. It is further stated that after contempt case was filed by the petitioner, the 2nd respondent disposed of the representation of the petitioners while rejecting the request as per orders dated 19-01-2009. After closure of the said contempt case, the present writ petition was filed questioning the rejection order dated 02-12-2008 and hence, the 4th respondent

sought for dismissal of the writ petition.

4. Heard the learned counsel for the petitioners and Smt. K. Lalitha, learned standing counsel for the 4th respondent.

5. It is to be seen that when the respondent authorities have disputed the status of the petitioners, they have filed O.A.No.89 of 2008, which was withdrawn later on their own. Now, it is the case of the 4th respondent-temple that they have not founder trustees of the 4th respondent-temple and also hereditary trustees. In view of Act 30 of 1987 coming into force, all the hereditary trustees are also abolished and it is for the petitioners to establish the same having withdrawn O.A.No.89 of 2008 filed by them. The impugned proceedings are issued having regard to the fact that since the petitioners themselves have withdrawn O.A.No.89 of 2008 filed by them for declaring them as members of the founder family to the 4th respondent temple, the application of the petitioners filed in pursuance of the orders in W.P.No.10407 of 2008 was rejected. As such, it cannot be said that the impugned proceedings are erroneous, illegal and not sustainable.

Therefore, in view of above facts and circumstances, the impugned proceedings do not suffer from any infirmity, illegality or irregularity calling for interference of this court in exercise of power of judicial review under Article 226 of the Constitution of India and hence, the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A. RAJASHEKER REDDY, J

Date: 17-08-2015

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