

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.19570 of 2015

Date: 03.07.2015

Between:

Gorrepati Jagga Reddy s/o.late Laxmi Reddy,
Aged 56 years, R/o.Door No.11-36, Munnangivaripalem
Village, Chunduru Mandalam, Guntur District and
two others.

.. Petitioners

AND

The State of Andhra Pradesh, rep.by its Principal
Secretary, Revenue(Endowments) Department,
Secretariat, Hyderabad and others.

.. Respondents

The Court made the following:

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ORDER:

This writ petition is filed challenging the competency of Deputy Commissioner to initiate proceedings under Section 133 of the Endowments Act, 1987 (for short, 'Act, 1987') and further orders passed by him on 15.06.2015 in I.A.No.2 of 2015 in O.A.No.5 of 2014 on the file of the Deputy Commissioner, Endowments Department, Guntur.

2. Petitioners claim that the 1st petitioner's father late Lakshmi Reddy constructed the temple in the premises existing as of now and has donated the land to an extent of Ac.0.05 cents for construction of Sri Hanumath Sametha Seetharama Chandra Swamy and Sri Rukmini Satyabhama Sametha Sri Venugopala Swamy temples in Tsundur Mandal, Guntur District. Petitioners are the hereditary trustees of the temple. Petitioners are performing various poojas and Annadanam and celebrates various festivals all along. In the year 2009-10, people have voluntarily agreed to give donations for 'Annadanam' and that system was continued subsequent years. In the same manner, subsequently petitioners enlisted 131 persons for Saswatha Annadanam scheme and all those persons offered to give donations. In anticipation of collection of said money in order to encourage people to come forward for donations all those names were depicted on the stone plates. The total amount of commitment made to contribute was to Rs.9,50,000/-. However, in fact, no amount was collected. Somebody brought to the notice of the Endowments Department alleging collection of said amount, which ultimately resulted in declaring as Endowment temple in accordance with Section 6(c) of the Act, 1987. Further proceedings are initiated. The declaration given under Section 6 of the Act and appointment of Executive Officer are subject matter of challenge in separate writ petition. So far as this case is concerned, alleging that in spite of the directions issued for handing over of records and valuables, the petitioners have not handed over the same, proceedings under Section 133 of the Act, are initiated before the Deputy Commissioner.

3. The said proceedings are challenged on the ground that in accordance with provision contained in Section 133 (2)(b) of the Act, the Commissioner alone is competent to issue a certificate holding that the records, amounts and properties specified therein belong to the institution or endowment. In the instant case, proceedings are taken up by the Deputy Commissioner, who is not competent and, therefore, further orders passed by the Deputy Commissioner to receive the documents in I.A.No.2 of 2015 in O.A.No.5 of 2014 is also illegal and entire proceedings pending before the Deputy Commissioner are liable to be set aside.

4. Learned standing counsel submits that Section 6(c) of the Act defines the Commissioner and as per the said provision it includes Deputy Commissioner also. She further submits that according to Section 3(5) of the Act, Government is competent to issue directions to the Commissioner and other authorities to discharge function conferred on Commissioner and other authorities, as the case may be. According to

Section 8(4) of the Act, power is vested in Commissioner to delegate such powers as exercisable by the Commissioner to Deputy Commissioner except the powers vested in him under Sections 6(1), 15, 49, 51, 66, 90, 92 and 132 of the Act. She further submits that in exercise of said power, by proceedings No.E1/60097/2003, dated 12.12.2003, delegation was conferred on the Deputy Commissioner. She further submits that the relevant provisions were considered by this Court and upheld the decision of vesting of power in the Deputy Commissioner under Section 133 of the Act in the case of **Nambula Anjaneyulu v. Vigneswara Swamy Temple Executive Officer, Bhimavaram**^[1].

5. The only point for consideration in this writ petition is whether the Deputy Commissioner is competent to exercise power to issue certificate in accordance with Section 133 of the Act ?

6. A combined reading of the provision contained in Section 2(6), 3(5) and 8(4) read with Section 133 of the Act, it is clear that the Deputy Commissioner is competent to exercise powers vested in Section 133 of the Act, on being delegated by the Commissioner. Proceedings dated 12.12.2003 referred to above makes it clear that power is delegated to the Deputy Commissioner. Thus, the Deputy Commissioner is competent to issue certificate under Section 133 of the Act and proceedings initiated is valid and there is no legal impediment for the Deputy Commissioner to proceed to decide the matter. As a consequence to exercise of such power, he is also competent to pass orders in interlocutory applications to meet the ends of justice. I see is no merit in the writ petition and writ petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions if any pending in the writ petition shall stand closed.

Date : 03.07.2015
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