

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition Nos.20219, 20427, 20428, 21024, 21442 and 22022 of 2011

COMMON ORDER:

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Since the issue involved in all these writ petitions is similar and identical, they are being disposed of by this common order.

Challenging the proceedings No.C/3650/1998-3, dated 01-07-2011 issued by the Assistant Commissioner, Endowments Department, Ranga Reddy fixing the date on 15-07-2011 for eviction of encroachers in the temple land and deputing the staff for the purpose of assisting the Manager of the temple for peaceful conduct of eviction process, the present writ petitions are filed.

The case of the petitioners is that all the petitioners belong to one family of one Chintala Sudhakar Reddy, who died on 12-11-2008 leaving behind the 1st petitioner and one Chintala Sriniketh Reddy as his legal heirs. Their family owned about Ac.60.00 of land in Survey Nos.688, 690, 691, 702, 703, 704, 705, 706 and 707 and the said land was partitioned between the brothers viz., late Chintala Ram Mohan Reddy, late Chintala Sudhakar Reddy, Chintala Narasimha Reddy and the 3rd petitioner and the said land was purchased by the father of the 3rd petitioner late Chintala Venkatanrayana Reddy vide sale deed dated 29-07-1953 registered in the office of Assistant Registrar, Hyderabad District. Ever since from the date of sale, the family of the petitioners are in possession of the land without any interruption from any corner. It is stated that recently in the year 1997 when a problem arose by the orders of the District Revenue Officer, Ranga Reddy District in proceedings in B1/15043/77, dated 12-07-1990, the said proceedings were issued by the District Revenue Officer holding that all the lands in Yamjal village including the lands of the petitioners as temple lands of the the 4th respondent and when the said orders are sought to be enforced against the petitioners, they filed W.P.No.1283 of 1997 challenging the said proceedings and the said writ petition was disposed of remanding the matter to the District Revenue Officer, Ranga Reddy for fresh consideration within a period of three months from the date of receipt of the order. But, after a lapse of six years from the date of the order in

W.P.No.1283 of 1997, the Endowments Commissioner, basing on the orders of the District Revenue Officer, Ranga Reddy dated 12-07-1990, issued the impugned proceedings ordering eviction of the petitioners from the subject lands. The said impugned proceedings were issued without any notice to the petitioners. As the petitioners are not aware of those proceedings, they made a representation on 15-07-2011 not to enforce the said proceedings against them, but the respondent authorities did not respond to the same. Aggrieved by the said action, the present writ petition has been filed.

The 4th respondent-temple filed its counter denying the allegations of the petitioners and contending that the subject lands are endowed lands and all the sales are null and void in view of the provisions of A.P. Endowments Act, 1987 as the alleged alienations are without permission of the Commissioner of Endowments. It is stated that the 4th respondent temple is an ancient temple and the same was established about 500 years ago and the said temple is having lands endowed admeasuring Ac.1521-13 guntas, in Survey No.55-63, 212-218, 513-521, 586-588, 639-641, 656-720, 722-723, 730, 731, 737, 751-753, 759 & 760 of Deveryamzal village, which is clearly shown in the pahani for the year 1926-26, Chowfasla of 1334 Fasli, and the Sethwar of 1353 Fasli and subsequently some of those illegal transfers were effected between various persons from the year 1938-53 and they are enjoying the same till date and the revenue enquiry was pending against the said lands since long time. It is further stated that pending enquiry the then Sub-Collector, Ranga Reddy, on coming to know that some of the temple lands were transferred illegally to an extent of Ac.400.37 guntas in Survey No.688 to 712 and 716 Devaryamjal village, he made an application before the District Revenue Officer concerned to take necessary action in the matter and the District Revenue Officer passed orders on 12-07-1990 declaring that the lands which are transferred belongs to the 4th respondent temple and to avoid said illegal transfers after due enquiry, he restored the name of the temple in the revenue records by deleting the names of the illegal transferees to the said extent including some of the lands of the petitioners. The Government also passed an order on the basis of the report submitted by the Commissioner of Survey, Settlement and Lands Records dated 21-10-1994 through G.O.Ms.No.269, dated 14-03-1996 declaring that the land admeasuring Ac.881.31 guntas belonged to the 4th respondent

temple which are under the possession of private parties by fraudulent transactions took place between 1938 to 1953 and directed the Commissioner of Endowments to take immediate necessary action for resumption of the said lands. It is further stated that the lands of the petitioners are also covered by the District Revenue Officer dated 12-07-1990 and G.O.Ms.No.14-03-1996 which were resumed in favour of the temple and entered in the Section 43 property register of the subject temple after following due process of law and the said entries are still valid as no one is questioned so far. It is further stated that the respondent authorities initiated eviction proceedings under Section 83 of the Act by submitting proposals in O.A.No.56 of 1999 to 107 of 1999 dated 27-01-2004 and batch including against the father of the 1st petitioner and the 3rd petitioner and one Smt. Chintala Narsamma in O.A.No.67 and 70 of 1999 for the lands in Survey No.688, 689, 690, 691, 703, 704, 705, 706 and 707 etc., on receipt of the report of the Assistant Commissioner, Endowments, a notice under sub-section 2 of Section 83 of the Act 30 of 1987 was issued by the Deputy Commissioner, Endowments, Hyderabad on receipt of such notice, they appeared and filed counter disputing the title of the temple and claiming that they are owners and possessors of the respective properties and they are in possession and enjoyment of the same. It is further stated that the 4th respondent-temple is the real owner to an extent about Ac.1521-13 guntas in Survey No.55-63, 212-218, 513-521, 586-588, 696-641, 656-720, 722-723, 730, 731, 737, 751-753, 759 & 760 of Devaryamajal village, which is clearly shown in the pahani for the year 1925-26, Chowfasla of 1334 fasli, and the Sethwar of 1353 faslies and as per the said pahani, the property admeasuring Ac.1521.13 guntas belongs to the 4th respondent temple. It is further stated that as per the orders of the District Revenue Officer enquiry proceedings in File No.B1/15043/77, dated 12-07-1990 holding that the 4th respondent temple is the owner of the lands to an extent of Ac.881.35 guntas in Survey No.668-723 of Devaryamajal village, It is further stated that as per the entries in Sec.43 of the Act 30 of 1987 register, the name of the 4th respondent for the said lands entered as owner and even as per the enquiry report dated 28-11-2007 of the Chief Commissioner, Land Administration submitted on 28-11-2007 after hearing all the parties, it was held that the title of the lands cannot be decided at this stage and the same shall be decided by the competent civil or revenue

courts and it was also observed that it is better to compromise as per the rules by regularization on payment of reasonable market value to the department on withdrawal of the notification under Section 22-A of the Act. It is further stated that orders were passed against the father of the 1st petitioner and the 3rd petitioner and one Chintala Narsamma in O.A.No.67 and 70 of 1999 and notices were issued to all encroachers including the petitioners in the year 2004, in response to which, some of them have approached the Commissioner, Endowments, Hyderabad for regularization on payment of market value and some of them were paid the amounts. It is further stated that the impugned orders were got issued by the 3rd respondent by fixing the date for execution of the orders in O.A. including O.A.Nos.67, 68, and 70 of 1999 for the lands in Survey Nos.688, 689, 690, 691, 703, 704, 705, 706 and 707 and the Manager of the subject temple has not taken the steps for seeking police protection with the help of the revenue officials, as such, the authorities were not in a position to provide their protection due to their pre-occupation of their duties and as such they could not execute the same and that there was no threat of eviction for the petitioners and the authorities will follow the due process of law. Hence, the 4th respondent sought for dismissal of the writ petition.

Heard the learned counsel for the petitioner and the learned standing counsel for the 4th respondent temple.

Learned counsel for the petitioners submits that the orders passed by the District Revenue Officer, Ranga Reddy dated 12-07-1990, which were set aside by this Court in W.P.No.1283 of 1997 remanding the matter to the District Revenue Officer, Ranga Reddy for fresh consideration, formed the basis for filing O.A.s against the petitioners. But no orders were passed so far, as such, the respondents cannot interfere with the subject lands. He also submits that the Government has also ordered enquiry appointing the Chief Commissioner, Land Administration, which was made in favour of the petitioners and the orders passed in O.A.No.93 of 1999 were set-aside by this Court in W.P.Nos.12222 and 12965 of 2004, as such, the petitioners cannot be evicted.

On the other hand, Sri D. Sudershan Reddy, learned standing counsel for the 4th respondent submits that against the petitioners and others O.A.Nos.56 of 1999 to 107 of 1999 were filed under Section 83 of the Act and after issuing

notices eviction orders dated 27-01-2004 were issued and the present O.As do not pertain to the petitioners herein and the enquiry report was not in their favour in which a suggestion was made that the regularisation of lands was done on payment of market value. As such, the impugned orders are only consequential proceedings issued pursuant to the orders passed in O.A.s, ordering eviction, as such, no interference is called for.

Though the orders passed by the District Revenue Officer, Ranga Reddy District in proceedings in B1/15043/77, dated 12-07-1990 are set aside by this Court in W.P.No.1283 of 1997, the orders dated 27-01-2004 passed in O.A.Nos.67 and 60 of 1999 against the petitioners have become final and the same have not been challenged at all. In the absence of challenge against the said orders, which have become final, the consequential proceedings issued pursuant to the said proceedings cannot be said to be illegal and arbitrary. More so, even the consequential proceedings were not challenged. However, the Government ordered enquiry appointing the Chief Commissioner of Land Administration and the same is still pending consideration with the Government, as stated by both the counsel.

In view of above facts and circumstances and having regard to the submissions made by the learned counsel for both parties, this court is of the opinion that the impugned proceedings do not suffer from any serious infirmity warranting interference of this Court in exercise of the power of judicial review under Article 226 of the Constitution of India. However, since it is stated that the enquiry report is called for and the same is pending consideration, the 1st respondent is directed to consider the application of the petitioners in terms of the enquiry report submitted by the Chief Commissioner of Land Administration, and thereafter shall take appropriate action in accordance with law. Till then, status quo obtaining as on today shall be maintained. It is needless to mention that the Government shall take appropriate action on the report of Chief Commissioner of Land Administration within a period of four (4) months from the date of receipt of a copy of the order.

Accordingly, all the writ petitions are disposed of accordingly. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions pending, if any,

shall stand closed.

A. RAJASHEKER REDDY, J

Date: 11-08-2015

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