

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.10990 OF 2015

ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the 2nd respondent in issuing proceedings in Rc.No.B4/1663/2015, dated 04.03.2015, by appointing the 4th respondent as single Trustee to Sri Abhayaanjaneya Swamy Temple, Madduru Village, Kankipadi Mandal, Krishna District, without any authority of law, as illegal and arbitrary and consequently to set aside the said proceedings.

The case of the petitioner-The Maddhuru Fishermen Co-operative Society Limited (*for short 'petitioner society'*) is that the members of the society belongs to Fishermen Community and eking out their livelihood by doing the fishing operations in the Krishna River. While so, in the year 1992, they put Anjaneya Swamy idle on the bund of the RC Canal with their own contributions and in the year 1996 they laid slab over the idle. It is also stated that the said Abhayanjaneya Swamy temple was established with the contribution of the petitioner society only. They have also taken electricity connection in the name of Mr.Bulli Basavaiah. Since Bulli Basavaiah is the active member of petitioner society in putting the idle on the bund of RC canal, they have treated him as the Managing Trustee of the temple. It is also stated that there was no Hundi in the said temple and the petitioner community people are maintaining the temple with their own contributions and performing the rituals whenever necessary. While so, the upper cast people in the village who belongs to the ruling party have started interfering in performing poojas to the idle and also trying to take over the temple to their hands by preventing the petitioners to come to the temple. In continuation of their ill motive, the Sarpanch of the Grampanchayat appointed the committee under the Chairmanship of the Sarpanch and passed resolution No.39, dated 06.11.2014.

The petitioner challenged the said resolution by filing WP.No.34921 of 2014, and this Court suspended the said resolution by order dated 19.11.2014, stating that the Grampanchayat has no authority or jurisdiction to take over the management of the subject temple. Thereafter, on the representation filed by Sri V.Narasimha Rao, Sarpanch and others, the 3rd respondent appointed Sri Brahmachary Bavajimut, Endowments Department, Vijayawada as fit person to enquire into the above representation and that the fit person has issued notice dated 13.12.2014 to Bulli Basavaiah, who is the managing Trustee of the Temple, to appear before him on 22.12.2014 along with the records of the temple. Challenging the said notice, the petitioner filed WP.No.39260 of 2014 before this Court and this Court disposed of the writ petition on 23.12.2014, directing the 3rd respondent to furnish copy of the complaint of Sri V.Narasimha Rao, Sarpanch, to the petitioner and to pass reasoned order by providing an opportunity of personal hearing to the petitioner, if necessary. In pursuance of the same, the petitioner submitted an explanation dated 01.01.2015 to the fit person but, without considering the same the fit person submitted his report to the 3rd respondent and the 3rd respondent recommended the same to the 2nd respondent. Subsequently, the 2nd respondent passed impugned order dated 04.03.2015, appointing the 4th respondent as Single Trustee to the temple. Aggrieved by the same, present writ petition is filed.

Learned counsel for the petitioner submits that though this Court passed orders on 23.12.2014, in WP.No.39260 of 2014, directing the 3rd respondent to furnish copy of the complaint given by the Sarpanch to the petitioner and to pass reasoned order by providing an opportunity of personal hearing to the petitioner, the respondent without conducting any enquiry and without considering the explanation dated 01.01.2015 submitted by the petitioner, passed impugned order, which is in violation of principles of natural justice.

On the other hand learned Standing Counsel for the 4th respondent submits that since the petitioner failed to submit any explanation, records, accounts and details of the hundies income and receipts, before the fit person,

the fit person submitted his report dated 13.02.2015 to the 3rd respondent, recommending that the temple may be tagged to the nearest group Executive officer for better management of the temple or a single trustee may be appointed for protection of the temple income. As such, there is no illegality committed by the 2nd respondent in passing the impugned order. He also submits that since the impugned notice is issued to Mr. Bulli Basavaiah, who is the Managing Trustee of the temple, the petitioner has no *locus standi*. She further states that the petitioner has alternative remedy under Section 92 of the Endowments Act, 1987.

Learned counsel for the implead petitioners states that the temple was constructed with the contributions made by the villagers and that the petitioner has not made Bulli Basavaiah and the fit person, as parties to the writ petition.

In this case, the respondents state that petitioner has not submitted any explanation before the fit person but, the petitioner states that they have submitted explanation before the fit person. The fit person, who issued proceedings dated 13.02.2015, categorically stated that the petitioner has not submitted any explanation. These are all the factual aspects to be decided in the writ petition. But, since Section 92 of the Endowments Act provides revision against the impugned order, it is open for the petitioner to file application under Section 92 before the concerned authority and the concerned authority may examine the same and pass appropriate orders.

In view of the sole ground that petitioner has alternative remedy under Section 92 of the Act, this writ petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions if any pending in the writ petition shall stand closed.

A. RAJASHEKER REDDY, J

23.04.2015

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