

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NOs.26079, 26975 & 26104 of 2015

Between :

K.Venkata Muralidhar S/o.Late Kasavaraju Rama Murthi,
Hindu, Aged about 55 yrs,
Occu : Corporation Bank Employee,
R/o.1-10-9, Kasavarajuvari Street, Kavali,
Sri Potti Sriramulu, Nellore District.

.. Petitioner

and

The State of Andhra Pradesh,
Rep., by its Secretary, Endowments Department,
Secretariat Building, Hyderabad & others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED : 18.08.2015

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SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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1. Whether Reporters of Local Newspapers : Yes / No
may be allowed to see the Judgments ?

2. Whether the copies of judgment may be : Yes / No
marked to Law Reporters/Journals

3. Whether Their Lordship wish to : Yes / No
see the fair copy of the Judgment ?

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION Nos. 26079, 26075 & 26104 of 2015

COMMON ORDER :

The petitioners claim to be members of founder family of Sridevi Bhudevi Sametha Lakshmikantha Swamy, Sri Kalugola Sambhavi Ammavari temple, Sri Malleswara Swamy Temple, Kavali, Sri Potti Sriramulu, Nellore District. The father of the petitioners was declared as member of founder family by virtue of the orders of the Tribunal in O.A.Nos.104, 105 and 106 of 2008, dated 09.03.2010. In view of the same, the petitioners are entitled to be designated as members of the founder family. While so, on the application submitted by the petitioners, the Deputy Commissioner, Endowments Department, Guntur (3rd respondent) passed orders on 23.06.2015 rejecting the request of the petitioners on the ground that he is not competent to decide the issue of status of the petitioners as members of the founder family and since the Andhra Pradesh Endowments Tribunal (for short 'the Tribunal') is constituted, such power vests only in the said Tribunal in accordance with the provisions contained in Section 87 (i) (h) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 30 of 1987 (for short 'the Act, 30/87').

2. Learned Counsel for the petitioners contend that once their father is recognized as member of the founder family and when there is no other dispute within the family of the founders, the question of referring the matter to the Tribunal or directing the petitioners to invoke the jurisdiction of Tribunal in accordance with Sec.87 (i) (h) of the Act, 30/87 is erroneous. The question of preferring the application to the Endowment Tribunal would arise only when there is serious dispute among the family members. Learned counsel further submits that the 3rd respondent erred in not holding himself as competent to decide the status of the petitioners, in view of the provisions contained in Section 87 (i) (h) of the Act, 30/87.

3. The issue for consideration is whether Deputy Commissioner erred in directing petitioners to invoke the jurisdiction of Endowment Tribunal to seek declaration that they are members of the founder family ?

4. This issue is no more res integra. In W.P.No.17226 of 2015, this

Court considered the same issue. This Court held as under :

“As seen from the provision contained in Section 87(1)(h) of the Act in case there is a dispute regarding entitlement of a person for being declared as member of the founder family, such dispute can be resolved only by the Endowment Tribunal. Thus, when there is no dispute regarding entitlement of a person being declared as member of the founder family, there is no necessity to resort to provision contained in Section 87(1)(h) of the Act and the competent authority has to decide the issue and confer status of member of founder family when such claim is not disputed by other family members and he is otherwise entitled for such declaration. In such a case, there is no need to drive him to Endowment Tribunal. I am fortified in my view by the decision of this court in A.V.Ranga Rao Vs State of Andhra Pradesh^[1].

5. Learned Government Pleader fairly submits that, in view of the earlier orders of the Court, the decision of the 3rd respondent is erroneous.

6. Having regard to the same, all the three writ petitions are allowed, setting aside the impugned order dated 23.06.2015 and the matter is remitted to the Deputy Commissioner of Endowments, Endowments Department, Guntur, (3rd respondent), for consideration of the request of the petitioners and for passing appropriate orders for recognizing them as members of the founder family. Such a decision shall be taken, with due notice to the petitioners within a period of three weeks from the date of receipt of copy of this order. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

18th August, 2015.
Rds

P.NAVEEN RAO,J

^[1] 2011 (1) ALT 274