

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No. 17076 of 2012

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ORDER :

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This writ petition is filed seeking writ of mandamus directing the respondents not to insist for handing over the charge of non existing Sri Kalikrishna Sadguru Vedanta Samajam.

2. It is the case of the petitioner that his maternal grand father by name Sri Nimmala Subba Rao was giving Ayurvedic treatment and that he was successful in curing many diseases. He was spiritually motivated and started devoting time for spreading spiritual awareness and philosophy and many followers considered him to be an incarnation and the name Kali Krishna Bhagwan was given to him. One Smt. Anasuyamma who was one of the followers took initiative and started a society known as Kalikrishna Sadguru Samajam and got the same registered under the Societies Registration Act in the year 1973. Smt. Anasuyamma was in-charge of the affairs of the society and other members were also helping her in managing the Society. Subsequently, unable to continue managing the said Society, the same was closed down in the year 1983 by Smt. Anasuyamma and the same was also informed to the Registrar of Societies about the same. There was no complaint from any quarter regarding the activities conducted by the grand father of the petitioner. In the year 1997, the petitioner's grand father was issued a notice by the Endowments Department stating that a single trustee was appointed and as he was managing the said Samajam, he had to render accounts and hand over the charge to the single trustee. Reply was filed to the same stating that he was the person in management of the said Samajam. Thereafter, the respondents got filed OA for handing over of charge without following the procedure. The petitioner's grand father filed W.P.No.6917 of 1999 on the file of this Court, wherein initially stay was granted and later the same was vacated with a direction to raise all the contentions in the OA. The petitioner also claims to be adopted son of his grand father namely Nimmala Subba Rao. The petitioner

also conducted the obsequies of said Subba Rao. There are no idols in the Ashramam and only the samadis of his grand mother and grand father are existing in the Ashramam land. The 4th respondent had issued notice stating that he had been appointed as Executive Officer to Kalikrishna Sadguru Vedanta Samajam and that the notice issued earlier was returned with an endorsement that there was no such institution at Badampudi village and that on an enquiry it was revealed that the institution was there and the notice was issued again in the name of the head of the institution. Aggrieved by the action of the respondents, the present writ petition is filed.

3. Counter affidavit is filed by the respondents 1 to 3 denying the averments in the affidavit filed in support of the writ petition stating that the Commissioner Endowments Department, A.P, Hyderabad had appointed the Executive Officer of Sri Kotasathemma Ammavari Temple, Thimmarajupalem Village, Nidadavole Mandal, West Godavari District as Executive Officer to Sri Kali Krishna Sadguru Vedantha Samajam, Badampudi village, Unguturu Mandal, West Godavari District, in terms of Section 29 of the Act of 30/87 vide proceedings in Memo No.D1/10414/2012, dated 26.03.2012. It is stated that Sri Kali Krishna Sadguru Vedantha Samajam was founded by Sri Nimmala Venkata Subbarao on 04.05.1973 and the property registered under Section 38 under the repealed Act No.17/1966 was opened and certified by Assistant Commissioner, Endowments Department, Eluru, W.G.District in R.Dis.No.A5/7162/74, dated 30.01.1975. The said institution was also published under Section 6 (c) (i) of the Endowments Act 30/87 by the Commissioner, Endowments Department, A.P, Hyderabad in R.Dis.No.J3/39484/87, dated 20.08.1987 under Sl.No.81.

4. The object of the subject institution is to provide free feeding daily to the shishyas and accommodation of Shishyas who came to the samajam and to perform Nithyabhajanulu. The said Samajam was being managed by Smt. Kakarla Anasuya during her life time in her capacity as President/Managing Trustee. It is stated that previously Sri D.Nageswara Rao, Executive Officer, Group Temples of Mutyalambapuram has been appointed as Single Trustee to the subject institution by this respondent in Rc.No.A5/1639/97, dated 30.06.1997. The single trustee administered the oath of office and secrecy on 07.07.1997 and the Single Trustee issued notice to Sri Nimmala Venkata Subbarao, who is the person in management for handing over of the charge of

records, accounts etc., of the above institution. But the person in management has not handover charge to the single trustee. The Single Trustee had filed petition before the Deputy Commissioner, Endowments Department, Kakinada under Section 133 of the Act 30/87 in O.A.No.355/1997. Aggrieved by the same, the person in management Sri Nimmala Venkata Subbarao filed W.P.No.236/98 on the file of this Court on 06.01.1998, along with WPMP No.267/98 wherein this Court granted stay. The OA No.355/97 was withdrawn on 7.9.1999 since Trust Board constituted. The said W.P.No.236/98 was dismissed as infructuous on 13.12.2004.

5. Subsequently, a Trust Board was constituted by this respondent in Rc.No.A4/8840/98, dated 25.08.1998 and among the trustees Sri G.Narasimha Rao, has been elected as Chairman of the Board of Trustees. The chairman was asked to take accounts and records from the PIM in Rc.No.A4/12509/1998, dated 3.10.1998. It is further stated that Sri Nimmala Venkata Subbarao, Person in Management had obtained stay against the constitution of Trust Board from this Court in WPMP No.35459/98 in W.P.No.29017/98 on 02.12.1998. Since the petitioner in the above writ petition died, the said writ petition was dismissed on 26.03.2007 and no steps had been taken Sri G.Narasimha Rao, Trust Board Chairman had filed O.A.No.64 of 1999 on the file of Deputy Commissioner, Endowments Department, Kakinada for grant of certificate under Section 133 of the Act 30/87. Sri N.V.Subbarao has filed W.P.No.6917/99 and initially obtained interim stay on all further proceedings in O.A.No.64 of 1999, subsequently the same was vacated by this Court on 17.09.1999. The Deputy Commissioner, Endowments Department, Kakinada in O.A.No.64/99 was pleased to grant certificate under Section 133 of the Act by orders dated 29.01.2000. Sri N.V.Subbarao filed W.P.No.1678 of 2000 and obtained stay on 10.02.2000 in W.P.M.P.No.2118/2000 in W.P.No.1678/2000 against the orders passed by the Deputy Commissioner, Endowments Department, Kakinada dated 29.01.2000. The said W.P.No.1678/2000 was dismissed as infructuous on 29.08.2007 and W.P.No.6917/1999 was dismissed as infructuous on 23.11.2003. A Trust Board was constituted in Proceedings No.A4/13840/1999, dated 22.11.1999. Sri N.V.Subbarao had filed R.P.No.1 of 2000 on the file of Regional Joint Commissioner, Endowments Department, MZ-1, Kakinada against the said Trust Board Orders and same was dismissed on 10.04.2000 as there are no

merits. Aggrieved by the same, Sri N.V.Subbarao filed W.P.No.7849 of 2000, which was also dismissed on 14.11.2007 as infructuous. The Management is not submitting the statutory returns.

6. It is further stated that the subject Samajam is to be run as per the provisions of the Endowments Act since the same was published and registered as per the provisions of the Endowments Act and it is purely an Endowment institution. Sri Nimala Venkata Subbarao had managed the said samajam and actively participated in the activities and filed writs against the proceedings initiated by the Endowments Department. That after demise of Sri Nimmala Venkata Subbarao in 2004, the petitioner who stated to be an adopted son had entered into the samajam activities and managing the said Kali Krishna Sadguru Vedantha Samajam. He is fully aware of the fact that the samajam is under the folds of the Endowment Department. Therefore, the petitioner is duty bound to hand over the said property with all records to the Endowment Department.

7. The 4th respondent also filed counter reiterating the averments of the counter affidavit filed by the respondents 1 to 3.

8. Heard Smt. I.Maamu Vani, learned counsel for the petitioner, learned Government Pleader for Endowments appearing for the respondents 1 to 3 and Smt. K.Lalitha, learned Standing Counsel for the 4th respondent.

9. Learned counsel for the petitioner submits that notice dated 18.05.2012 has been issued by the 4th respondent in respect of non existing institution and that the said institution is registered by one Smt. Anasuyamma, who is the follower of the petitioner's grand father. She would further contend that said institution was closed down and it does not exist and that no records or properties are in existence to be handed over to the 4th respondent. She would contend that the impugned notice had been issued without any application of mind. She also submits that the procedure under Section 133 of the Andhra Pradesh Charitable & Hindu Religious Institutions & Endowments Act, 1987 (Act 30 of 1987) (for short 'the Act of 1987') has not been followed.

10. On the other hand, learned Government Pleader for Endowments appearing for respondents 1 to 3 submits that a Single Trustee was appointed, as Sri

Nimmala Venkata Subbarao filed writ petition and obtained stay and thereafter stay was vacated. He would further contend that Sri Nimmala Venkata Subbarao actively pursuing the matter and he lost in all writ petitions filed before this Court. He also submits that without disclosing all the facts including the fact of allowing the OA, the petitioner filed this writ petition.

11. In this case, it is to be seen that Sri Kalikrishna Sadguru Vedanta Samajam was registered under Section 38 of the Act 17 of 1966 and the same is not in dispute. According to the counter affidavit, the O.A.No.64 of 1999 filed under Section 133 is also allowed. Learned counsel for the petitioner submits that he is an adopted son and also grand son of Nimmala Venkata Subbarao. The petitioner is claiming through Sri Nimmala Venkata Subbarao and the said Nimmala Venkata Subbarao had lost in W.P.No.7849 of 2000 and also in O.A.No.64 of 1999. The writ petition filed by Sri Nimmala Venkata Subbarao i.e., W.P.No.6917 of 1999 was also dismissed as infructuous on 23.11.2003. The petitioner had not produced any document to show that he is an adopted son or grandson of Late Nimmala Venkata Subbarao. It is the case of the petitioner that the subject institution does not exist and there are no properties of the said institution except samadhis of Nimmala Venkata Subbarao and his wife. It is not the case of the petitioner that he is not aware of the earlier litigation and that the orders in O.A has become final, the petitioner cannot turn around and dispute the same. Admittedly, writ petitions filed by Sri Nimmala Venkata Subbarao were dismissed and petitioner is also bound by the same, as he is claiming through Sri Nimmala Venkata Subbarao, who is writ petitioner in earlier writ petitions. In the counter affidavit it is categorically stated that the subject institution was also registered under Section 6 (c) of the Act. The petitioner cannot blow hot and cold and contend that the subject institution does not exist and that the procedure under Section 133 of the Act is not followed. In the entire writ affidavit, it is not the case of the petitioner that the procedure under Section 133 of the Act is not followed.

In view of the same, since the petitioner has not disclosed all the facts and taking inconsistent pleas, no relief can be granted by exercising extraordinary jurisdiction under Article 226 of the Constitution of India. The petitioner has not

made out any case for issuing writ of mandamus. Moreover, the petitioner has not challenged the proceedings dated 18.05.2012. In view of the same, I do not see any merit in the writ petition and same is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous applications, if any pending in this Writ Petition, shall stand dismissed.

_____ **A.RAJASHEKER REDDY, J**

30.10.2015.

KVS

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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