

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 7442 OF 2009

ORDER:

Heard learned counsel for the petitioners; learned Government Pleader for Endowments appearing for respondent Nos.1 and 2; and Smt.K.Lalitha, learned Standing Counsel for respondent No.3.

2. This writ petition is filed questioning the order dated 30.06.2007 passed in O.A.No.21 of 2005 by the Deputy Commissioner, second respondent, directing eviction of Late Prasada Rao from the premises bearing D.No.12-1-92, Kothapet, Guntur.

3. The case of the petitioners is that the Manager of Sri Siddabathuni Komalangamma Dharma Satram, third respondent, filed complaint against Pasupuleti Prasada Rao, who is the husband of petitioner No.1 and father of petitioner Nos.2 and 3. Basing on the said complaint, the third respondent passed the impugned order, dated 30.06.2007, directing late Pasupuleti Prasada Rao to remove the encroachment and deliver possession of the vacant site of 50 square yards covered in D.No.12-1-92 situated at Sanakkayala Factory Road, Kothapet, Guntur Town & District belonging to Sri Siddabathuni Komalangamma Dharma Satram, Lalapet, Guntur Town & District.

4. It is the specific contention of the petitioners that the third respondent passed the impugned order without realizing the fact that

the said Prasada Rao died on 01.03.2007 itself and even without issuing any notice to the first petitioner, who is the legal heir and successor of the said Prasada Rao, who is in occupation of the land of 50 square yards with Door No.12-1-92, Kothapet, Guntur.

4. Though a counter affidavit is filed by the third respondent, the specific averment of the petitioners that the said Prasada Rao died is not denied. Inasmuch as the impugned order is passed against a dead person, the same cannot be sustained.

5. In those circumstances, without going into the merits and demerits of the matter, the order dated 30.06.2007 is set aside remanding the matter in O.A.No.21 of 2005 to the file of the Endowments Tribunal, Guntur, to complete the enquiry after issuance of notice to the petitioners in the writ petition and pass appropriate orders expeditiously in accordance with law. Till the disposal of the said O.A. by the Tribunal, the respondents are directed not to evict the petitioners from the property in question. However, it is also made clear that pending disposal of O.A., petitioners shall not make any construction in the premises in question.

Subject to the above observations, the Writ Petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

JUSTICE CHALLA KODANDA RAM

November 3, 2016
LMV

