

*** THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**
+ WRIT PETITION NOS.9787 OF 2010 & 30202 OF 2012

% DATE: 16.11.2016

WRIT PETITION No.9787 of 2010:-

Varala Reddy and another

..... Petitioners

AND

Government of Andhra Pradesh and five others

.....Respondents

! Counsel for the petitioners: Sri O. Manohar Reddy

^ Counsel for respondent No.1: Government Pleader for Endowments

^ Counsel for respondent Nos.2 & 3: Mrs. Sundari Pisupati

^ Counsel for respondent No.4: Sri K.S. Murthy

^ Counsel for respondent No.5 & 6 : Sri Gopala Krishna Kalanidhi

WRIT PETITION No.30202 of 2012:-

R.V.V. Krishna Rao

..... Petitioner

AND

Government of Andhra Pradesh and eight others

.....Respondents

! Counsel for the Petitioner: Sri K.S. Murthy

^ Counsel for the respondent Nos.1 to 4: Government Pleader for Revenue

^ Counsel for the respondent No.6: Government Pleader for Endowments

^ Counsel for the respondent No.7: Government Pleader for Home

^ Counsel for the respondent No.8: Government Pleader for Mines&Geology

^ Counsel for the respondent No.9: Sri Gopala Krishna Kalanidhi

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> Head Note:

? Cases referred:

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos.9787 OF 2010 and 30202 of 2012

COMMON ORDER:

Since the parties and the issue involved in both the writ petitions are one and the same, they were heard together and being disposed of by this common order. The parties as arrayed in W.P.No.9787 of 2010 are referred to hereinafter as such for the sake of convenience.

Writ Petition No.9787 of 2010 is filed questioning the Resolution No.239, dated 15.09.2009 passed by the 3rd respondent-The Board of Trustees, Tirumala Tirupati Devasthanams, Tirupati (in short "TTD Board").

Sri O. Manohar Reddy, learned counsel appearing for the petitioners, while referring to the writ affidavit reiterated that the petitioners belong to poorer sections of the society and eking out their livelihood by stone cutting and residents of Pathakalva Village, Gollapalli Post, Tirupathi Rural Mandal. The villages surrounding the Pathakalva Village viz., Nathakalva Mitta village, Mittameedha Indlu and Gandhi Nagar villages are drought affected areas. About 4000 persons, residing in those villages, are engaged in stone cutting to eke out livelihood. Particularly the land in Sy.No.324 of Sri Mallavaram Village and Sy.No.590 of Perur Village is classified as Banda Poramboke and leases were granted by the Mining Department for the purpose of stone quarrying. The stone metal available in these areas is very famous in Chittoor District. Thus, providing employment and livelihood to the petitioners and other stone cutters of the villages. There is abandoned and

dilapidated temple on the hillock of the land in Sy.No.590 of Perur Village and there is no idol in the temple, as the same was removed by Muslim rulers long back. Even during the British period the said temple was not visited by any persons and on account of the leases granted, the granite rock available is being used by the public. A resolution dated 31.07.2005, passed by the TTD Board, proposing to take over Sri Venkateswara Swamy Temple at Thondamnadu and Sri Vakhulamatha templet at Perur village i.e., the temple on the hillock at Sy.No.590 of Perur village, was opposed by the 2nd respondent-Tirumala Tirupati Devasthanams (in short "TTD"). In the Resolution No.550, dated 24/25.12.2005, passed by the 2nd respondent-TTD, after taking into consideration of the Resolution No.1084, dated 24/25-02-1997 and Resolution No.61, dated 20.05.2005 TTD Board had resolved to take over Sri Venkateswara Temple at Thondamnadu and further to examine the feasibility of construction of a separate temple for Vakulamatha.

It is the submission of the learned counsel for the petitioner that the TTD Board has resolved on 25.12.2005 that the abandoned and dilapidated temple of Sri Vakulamatha at Perur village shall not be renovated and a separate temple to be constructed elsewhere. As a matter of fact, TTD Engineering Department had identified the area at Alipiri for construction of Vakula Matha temple. Now through the impugned resolution once again 3rd respondent-TTD Board has decided to renovate the Vakula Matha temple on the hillock itself at Perur village. It is the contention of the learned counsel for the petitioner that there is no rational in the impugned resolution dated 15.09.2009 and the resolution is in diametrically contrary to the earlier resolutions,

whereunder the TTD had resolved to not renovate the abandoned and dilapidated temple at Perur. Instead of constructing a new temple for Sri Vakula Matha in terms of Resolution No.550, dated 24/25.12.2005, passing the impugned resolution is not proper and legal. Learned counsel would submit that the expenditure that is involved in the proposed rehabilitation / renovation of Sri Vakula Matha temple at Perur is unauthorised and contrary to Section 111 sub-section (4) of the Andhra Pradesh Charitable & Hindu Religious Institutions & Endowments Act, 1987 (in short "Endowments Act"). Elaborating on the same and by reference to the definition under Section 2(28) of the Act, learned counsel for the petitioners would submit that the Sri Vakula Matha temple is not one of the temples falling within the 1st schedule of the Endowments Act and thereby any expenditure that is proposed to be made for renovation of Sri Vakula Matha temple at Perur would be contrary to the permissible expenditure within Section 111 of the Endowments Act. Apart from that learned counsel passionately pleads that the livelihood of thousands of the villagers living in and around would be jeopardised and thereby he seeks a Writ of Mandamus seeking declaration that the resolution dated 15.09.2009 passed by the 3rd respondent-TTD Board as contrary to the provisions of the Endowments Act.

Learned counsel Smt. P. Sundari, appearing on behalf of the respondent Nos.2 and 3, would submit that there is no dispute that the abandoned and dilapidated temple is the ancient temple though not in functional condition as on the date. The learned counsel submits that it cannot be said resurrecting renovation of the Vakulamata Temple in any way contrary to the objections of

the TTD. Inasmuch as, Vakula Matha is the mother of the lord Venkateswara and she would also further submit that the expenditure which may be incurred for the purpose of renovation of the temple would fall within the broad spectrum of the Act that is allowed in terms of Sections 111 (4) (x) and (xiii) of the Endowments Act. She would also point out that the land over an extent of Ac.4-15 cents situated in Sy.No.324 and Sy.No.590 of Perur Village have been allotted vide Collector's proceedings dated 01.12.2009 much before the filing of the Writ Petition and the TTD has taken the possession of the said land. The resolution dated 15.09.2009 was challenged belatedly in the year 2010, therefore, the Writ Petition is to be dismissed on the ground of laches.

Sri Gopala Krishna Kalanidhi, learned counsel appearing for the implead petitioners, supports the case of the TTD. Learned counsel Sri Gopala Krishna Kalanidhi, by specifically drawing attention to the implead petition filed by one Sri G. Bhanu Prakash Reddy, would further submit that the construction of Sri Vakula Matha temple at Alipiri would not be sacred as Vakula Matha is the mother of the Lord Venkateswara and the location at Alipiri would be at the feet of hills of the seven hills, whereas, the Lord Venkateswara is on the Seven Hills which would virtually amount to mother sitting at the feet of the son. In that view of the matter, the proposal to construct Sri Vakula Matha Temple at Alipiri to say the least would not be proper, apart from the same being against the Agama Sastras.

Learned counsel Sri K.S. Murthy submits that yet another writ petition has been filed by one R.V.V. Krishna Rao, questioning

the illegal quarrying that is being undertaken by various people in Sy.No.590 of Perur village, and this Court vide order dated 28.09.2012 directed not to allow any quarrying operations especially taking into consideration of the importance of the Sri Vakula Matha temple. He further submits that the quarrying is illegal and the petitioners are setup by the quarry owners who have been granted licenses earlier and whose licenses have expired.

Having considered the respective submissions the questions which fall for consideration are –

- 1) The *locus standi* of the petitioners to question the Board Resolution;
- 2) The legality or otherwise of the Board Resolution dated 15.09.2009, and
- 3) The issues raised in the Writ petition with respect to the expenditure that is likely to be incurred for construction of Sri Vakula Matha temple, whether it is permissible or not.

At the outset, the Writ Petition is not being filed in public interest, petitioners do not have *locus standi* to question the resolution of the Board as admittedly petitioners are not connected with the T.T.D. in any manner. On that simple ground the Writ Petition itself is liable to be dismissed.

As stated supra, it is not in dispute that Vakula Matha is considered to be the mother of the lord Venkateswara. It is also not in dispute that once upon a time there existed a temple of Sri Vakula Matha in Sy.No.590 of Peruru village and the same as on date is dysfunctional. It is also not being disputed by the learned counsel for the petitioner that there is any provision, which prohibits the Board to vary its earlier resolutions or decisions.

Neither there is any irrationality nor impropriety that has been pointed out in the impugned resolution. The power of the Board to take decisions is traceable to powers and functions of TTD Board Rules, 1990 and there is no specific rule which is alleged to be contravened in the present case. So far as the expenditure is concerned, the same would fit into one or the other provisions under Sections 111 (4) (x), (xii) and (xiii), which are wide enough to allow the expenditure of the nature, which is sought to be incurred in the present case. At any rate, as of date the resolution by itself do not envisage any expenditure having been allocated or having been spent, even to petitioners to contend that such expenditure is either outside the permissible limits or outside the objects of the TTD.

As a matter of fact, so far as the deprivation of the livelihood of the petitioners and others are concerned, as it is said, if one door gets closed lord opens another door. In the present case, if at all the temple for Sri Vakula Matha gets developed on the hillock, there is always a possibility for flow of devotees to the area and over a period of time the said temple may get the prominence just like the seven hills of Lord Venkateswara temple, which would eventually open up an opportunity for the people living in the surrounding villages. Viewed from any angle the Board Resolution dated 15.09.2009 not being *ultra virus* the powers and not being irrational, does not require any interference of this Court, in exercise of its powers under Article 226 of the Constitution of India.

Implead Petitions are ordered.

Accordingly, Writ Petition No.9787 of 2010 is dismissed and the Writ Petition No.30202 of 2012 is allowed.

Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.

CHALLA KODANDA RAM, J

Dated:16.11.2016.
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