THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT APPEAL No.1368 OF 2016

Judgment: (**Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan**)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed in W.P. No. 19159 of 2016 dated 11.11.2016. The appellants herein are the petitioners in the writ petition wherein they sought a mandamus to declare the action of respondent Nos. 4 and 5, in interfering with their right over the lands of an extent of Acs. 6.29 cents in Survey No. 313, an extent of Acs.4.39 cents in Survey No. 317, an extent of Acs. 3.21 cents in Survey No. 359, and an extent of Acs.9.68 cents in Survey No.361 of Chinnapasupula Village, Peddamudiam Mandal, Y.S.R. District, claiming that the land is classified as endowment land as per the entries in R.S.R, as arbitrary and illegal.

By an elaborate order the learned Single Judge, after noting the contentions of both the appellants and the respondents as also the judgment of the Full Bench in **Vinjamuri Rajagopala Chary v. State of Andhra Pradesh**[1], held that there was a dispute with regards the title of the property; and, as both the parties were relying on the entries made in 1-B model as well as R.S.R, in respect of which, according to the learned counsel for the petitioners, no title would be conferred, it would not be proper for this Court to decide ownership over the property; and as there was a dispute with regards the title over the property, it would be appropriate for the parties to avail the remedies available under the law. In view of the interim orders passed earlier, the learned

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[1] (2016) 2 ALD 236 (FB) = 2016 (1) ALT 550 (FB)

Single Judge held that the petitioners shall not be dispossessed for a period of six weeks from the date of the order, during which period they shall approach the appropriate forum and obtain necessary orders therefrom.

Sri V.R. Reddy Kovvuri, learned counsel for the appellants, would draw our attention to Sections 2(22), 2(23) and Clauses (1), (3), (5) and (6) of Section 43 of the Andhra Pradesh Charitable & Hindu Religious Endowments Act, 1987 (for short "Act 30 of 1987"), and to the judgment of the Full Bench of this Court in **Vinjamuri Rajagopala Chary**[1], to contend that it is only if the lands, which the 5th respondent temple claimed to be the owner of, have been recorded in the register maintained by the Assistant Commissioner of Endowments, and he issues a Certificate, can the temple claim ownership of the land; as the temple places reliance on a register maintained by the Endowments Inspector, who is not the competent authority, the contents of the register would not confer any right on the 5th respondent-temple that they own the subject lands; public authorities should not be permitted to interfere with the possession of owners of the land, or those in possession thereof, except in accordance with law; and the petitioners ought not to have been relegated to the alternative remedies available to them under the law, as it is evident that the 5th respondent-temple is not the owner of the property.

Section 2 (22) of Act 30 of 1987 defines 'religious endowment' to mean property (including movable property), and religious offerings whether in cash or kind, given or endowed for the support of a religious institution or given or endowed for the purpose of any service or charity of a public nature connected therewith or of any other religious charity; and includes the institution concerned and also the premises thereof. Section 2(23) defines ‘religious institution’ to mean a math, temple or specific endowment, and includes a Brindavan, Samadhi or any other institution established or maintained for a religious purpose.

Section 43 relates to registration of charitable and religious institutions and endowments and, under sub-section (1) thereof, the trustee or other person in-charge of the management of every charitable or religious institution or endowment shall, in the case of an institution or endowment in existence at the commencement of Act 30 of 1987, within ninety days from such commencement; and in the case of an institution or endowment, found after such commencement, within ninety days of such founding, make an application for its registration to the Assistant Commissioner within whose sub-division such institution or endowment is situated. Under the proviso thereto, the Assistant Commissioner is empowered, for sufficient cause, to extend the time for making the application. Section 43(3) stipulates that, notwithstanding anything in sub-section(1), no application for registration shall be necessary in the case of an institution or endowment which was duly registered and entered in the book of endowments, before the commencement of Act 30 of 1987, under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966. Section 43(6) provides that all the particulars relating to every institution or endowment, contained in the certificate of registration granted under Sub-section (5), shall be entered in the register which shall be maintained by the Assistant Commissioner in respect of all institutions and endowments situated within his sub-division; and one copy of the entries made in such register, relating to every institution or endowment, shall be furnished to the Deputy Commissioner having jurisdiction; and another copy to the Commissioner.

While Section 43 requires the charitable or religious institution and endowment to be registered, and a Certificate to be issued by the Assistant Commissioner of such registration, the question which necessitates examination is whether mere absence of registration of the particulars of the property, with the Assistant Commissioner, would divest the temple of its title over the land which it owns or claims to own. As reliance is placed on a Full Bench judgment of this Court, it is necessary for us to refer to the law declared therein.

The scope of Section 22-A of the Registration Act fell for consideration before the Full Bench in **Vinjamuri Rajagopala Chary**[1]. Section 22-A of the Registration Act relates to prohibition of registration of certain documents and, under Clause (1)(c) thereof, documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease exceeding ten years in respect of immovable property, owned by religious and charitable endowments falling under the purview of Act 30 of 1987, is prohibited from registration. The requirement of registration of documents, relating to transfer of property belonging to a religious and charitable endowment, fell for consideration before the Full Bench in **Vinjamuri Rajagopala Chary**[1] and the Full Bench observed:

"………..Insofar as the Endowments Act is concerned, Sections 43, 45 & 46 of the Endowments Act are relevant. Section 43 provides registration of charitable and religious institutions and endowments. This provision prescribes the procedure for registration of an institution/endowment by the Assistant Commissioner of Endowments. When the application, under this provision is made to the concerned Assistant Commissioner for registration of an endowment it requires to be made, as prescribed under sub-sections (1) to (4) of Section 43. Sub-section (4) provides what every application for registration of an endowment, should contain, amongst many other things, particulars of immovable property and movable properties including jewels, gold, silver or precious stones or vessels and utensils belonging to the endowment with their estimated value and the monies and the securities and of the annual income therefrom and to furnish title deeds and other documents relating to such properties. Sub-section (5) of Section 43 empowers the Assistant Commissioner to make an enquiry before passing an order directing registration of an endowment and issue a certificate of registration containing the particulars furnished in the application with the alterations, if any, made by him as a result of his enquiry. Sub-section (6) provides that the certificate of registration should be entered in the Register of Institutions and Endowments (for short the Register) in respect of all the institutions and endowments situated within his sub-division. The Register, as provided for under sub-section (7), shall be divided into two parts; one for charitable institutions and endowments, and the other for religious institutions and endowments. Sub-section (8) further provides as to what the Assistant Commissioner shall enter in the Register maintained by him under sub-section (6). The other sub-sections may not be relevant for our purpose. Sections 45 & 46 of the Endowments Act are also relevant.........

..........Sections 43, 44 & 45 of the Endowments Act make it manifest that all the properties owned by the institutions/endowments require to be entered in the prescribed Register and once any immovable property belonging to the endowment is entered in the prescribed Register, such entry shall be presumed to be genuine until the contrary is proved. Therefore, once the property is entered in the Register prescribed, it is prima facie proved that it is owned by religious and charitable endowments and, if such property is included in the list of properties communicated to the Registrar concerned, clearly indicating therein that it is covered by clause (c) of sub-section (1) of Section 22-A, and it is owned by particular institution/endowment, no document presented for registration dealing with such property can be registered by the registering authorities. In other words, the registering authority can refuse registration of such a document covering the property belonging to any institution/endowment which is entered in the Register maintained under the provisions of Section 43 read with Section 45 of the Endowments Act. The aggrieved party, in that event, shall have to resort to a remedy that may be available under the Endowments Act. In short, as long as a property finds place in the prescribed Register, a document in respect of such property presented for its registration to the Registrar cannot be received and registered, unless such document is executed by a person statutorily empowered to do so or authorized by the endowment to do so........"

The law declared by the Full Bench, in **Vinjamuri Rajagopala Chary**[1], is that Section 22-A(1)(c) of the Registration Act, which prohibits registration of documents relating to transfer of property belonging to a religious institution or endowment, would apply only if such a document related to a property, belonging to an institution/endowment, which has been entered in the register maintained under Section 43 read with Section 45 of the Endowments Act; the aggrieved party, in that event, shall have to resort to a remedy that may be available under the Endowments Act; as long as the property finds place in the prescribed register, a document in respect of such property, presented for its registration to the Registrar, cannot be received and registered, unless such document is executed by a person statutorily empowered to do so, or is authorized by the endowment to do so.

The complaint in the writ petition is that the 5th respondent was seeking to interfere with the petitioners' possession over the lands which they claim to own. While the aforesaid judgment of the Full Bench does not declare that a temple would cease to be the owner of the land merely because such land has not been entered in the register maintained under Section 43, Sri V.R. Reddy Kovvuri, learned counsel for the appellants, would submit that the logical corollary, of the law declared by the Full Bench, is that, in the absence of the subject lands being recorded in the Register either under the 1966 Act or the 1987 Act, the temple cannot claim to be its owner.

In **State of Orissa v. Sudhansu Sekhar Misra**[2], the Supreme Court held:

> A decision is only an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. On this topic this is what Earl of- Halsbury. LC said in **Quinn v. Leathem: 1901 AC 495**.
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> "Now before discussing the case of Allen v. Flood, (1898) AC 1 and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical Code, whereas every lawyer must acknowledge that the law is not always logical at all."
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> It is not a profitable task to extract a sentence here and there from a judgment and to build upon it.

The law declared by Superior Courts is the law only on the issues it decides, and not what may logically follow therefrom. The aforesaid judgment of the Full Bench, in **Vinjamuri Rajagopala Chary**[1], does not declare that failure of a temple, to register its properties under Section 43, would divest it of its title over such properties.

Learned Government Pleader for Revenue (AP) would submit that the subject lands belonging to the 5th respondent, which has been in existence for the past more than 700 years, were put to auction in the year 2014 for a period of three years; possession thereof was handed over to the auction purchaser in the year 2014 itself; and the petitioners cannot claim either to be the owners, or to be in possession, of the subject lands which belong to the 5th respondent temple. It is wholly unnecessary for us to examine the rival claims of the petitioners and the 5th respondent-temple, regarding ownership over the subject lands, as this Court would not, in proceedings under Article 226 of the Constitution of India, determine disputed questions of title.

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[2] AIR 1968 SC 647

The learned Single Judge has, in the order under appeal, relegated the petitioners to the remedy before the appropriate forum. In an intra-court appeal, under Clause 15 of the Letters Patent, interference would be justified only if the order of the learned Single Judge suffers from a patent error or illegality. We find no such infirmity in the order under appeal.

The writ appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

15th December, 2016
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THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

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