

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.1992 of 2008

ORDER:

This Writ Petition is filed by the petitioner to declare the act of 1st respondent in undertaking construction of Sri Veerabhadra Swamy temple by allegedly blocking the passage being used by the petitioner as well as the 1st respondent-Devasthanam.

2. The petitioner temple was constructed allegedly about 100 years back by members of the Aarya Vysya community whose family deity is Goddess Kanyakaparameswari. It is classified under Section 6 (c) of the AP Charitable and Hindu Religious Institutions and Endowments Act, 1987. It is also a denomination institution and it is alleged that a certain exemption has been granted permitting the members of the Arya Vysya community only to manage it.

3. According to the petitioner, 1st respondent Devasthanam is situated in the same compound and the devotees have common entrance for visiting both the temples for the last 100 years. According to the petitioner, a passage existed between the two temples which was covered by tin sheet. This passage is alleged to be of extent 22 feet. Petitioner alleged that when 1st respondent temple came under the management of an Executive Officer, he started renovating and

reconstructing 1st respondent temple and under the guise of the same, he started building Sri Veerabhadra Swamy temple in the passage used by the devotees of both the temples. Representation dt.25-10-2007 was made by the petitioner to the Executive Officer of 1st respondent Devasthanam alleging that construction of the temple of L o r d Veerabhadra Swamy would cause lot of inconvenience to the devotees of the petitioner-Devasthanam and also hurt their religious sentiment.

4. Initially, this Court granted *status quo* order on 07-02-2008 which was subsequently modified on 18-11-2008 after counter was filed by 3rd respondent permitting the construction of Veerabhadra Swamy temple to go on but restraining the respondents from constructing a compound wall between the petitioner temple and the Veerabhadra Swamy temple.

5. Learned counsel for the petitioner reiterated the contentions in the Writ Petition.

6. Sri Satish Kumar, learned counsel appearing for 1st respondent and the learned Government Pleader appearing for 3rd respondent refuted the above contentions.

7. They contended that renovation of 1st respondent temple was taken up as per plans and estimates approved by 2nd respondent on 28-02-2004, that an amount of Rs.31,41,000/- was sanctioned from the common good fund for taking up renovation work and that the said work is going on without interruption in the land possessed by 1st respondent temple as per the register maintained under Section 43 of the Act. They denied that there was a common passage between petitioner and 1st respondent temple and contended that as part of renovation, this tin roof shed was removed and the earth level raised. It was denied that there was any encroachment by 1st respondent temple and it is asserted that the construction of Sri Veerabhadra Swamy temple was taken up in the own land of 1st respondent temple. It is also contended that when the petitioner questioned renovation of 1st respondent temple, he was asked to produce documents to show title to the land wherein renovation and construction work is going on, but the petitioner did not produce any documentary evidence to prove its title. It is stated that there is sufficient passage of 3 feet for the *pradakshana* of petitioner temple devotees apart from an exclusive large entrance which was created after purchase of a piece of land in front of the petitioner temple by the petitioner temple. It is stated that the devotees of the petitioner temple are using this main

entrance.

8. No reply affidavit has been filed by the petitioner temple disputing any of these assertions made by the respondents.

9. Learned counsel for the petitioner has also not been able to place any material before this Court in support of the plea of the petitioner that the Veerabhadra Swamy temple is being constructed in a passage which is common to both temples or belonging to the petitioner temple.

10. In this view of the matter, the statement made by 3rd respondent that there is no common passage between the petitioner temple and 1st respondent temple and that the construction of Veerabhadra Swamy temple is being done in the land owned by 1st respondent temple has to be believed.

11. I therefore do not find any merit in the Writ Petition and accordingly the Writ Petition is dismissed. No costs.

12. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-02-2016

kvr