

THE HONB'E JUSTICE CHALLA KODANDARAM

WRIT PETITION No.5446 OF 2006

ORDER:

The writ petition is filed questioning the proceedings dated 04.03.2006 issued by the 3rd respondent in O.A.No.2 of 2006.

It is the case of the petitioners that by the proceedings dated 28.12.2004, petitioners were recognized as belonging to the founder's family members of Sri Venkateswara Swamy Devasthanam, Jamalapuram Village, Madhira Taluk, Khammam District. As a matter of fact, the petitioners' names were also entered into the register maintained under Section 43 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, "the Act"). Once again a notice dated 04.03.2006 was issued by the 3rd respondent seeking to re-determine the status of the petitioners. Questioning the same, the present writ petition is filed.

In the counter-affidavit filed by the respondents, it is stated that the first petitioner and others themselves have approached the Deputy Commissioner by filing an application under Section 43 of the Act and as such the impugned proceedings initiated are not invalid.

Learned counsel for the petitioners submits that there is no suo motu powers vested with the 3rd respondent and at any rate determination with respect to the properties and also with regard to the status of the petitioners was already made by the Government in terms of the proceedings dated 28.12.2004.

Perused the record. A close scrutiny of the letter dated 08.01.2006 of Sri Venkateswara Swamyvari Devasthanam discloses that what all the first petitioner sought is that his family members had donated the land to the extent of about Ac.29.00 in 1975 and the various funds have been allocated to the temple by the T.T.D and other organizations and to protect the properties of the temple over an extent of Ac.29.00 necessary survey may be conducted and necessary entries be effected in the registers maintained under Section 43 of the Act. The letter dated 08.01.2006 does not give the cause of action for the 3rd respondent to initiate proceedings in terms of Section 45(2) of the Act. Though initially an argument sought to be advanced that an enquiry is ended, now in

the light of the letter dated 08.01.2006, about which there is no dispute that the petitioners themselves seek to record the ownership to the extent of Ac.29.00 in favour of the temple, the question of making any further enquiry under Section 45(2) of the Act does not arise. However, the 3rd respondent may require to enquire with regard to whether there are any other rival claims with respect to the land. So far as that aspect is concerned, petitioners cannot be the respondents. So far as the aspect as to whether the petitioners are entitled to be the founder's family members are not as long as the Memo dated 28.12.2004 is in subsisting, the petitioners shall have to be considered as founders family members of the temple. At any rate, today in the light of the clarification given by the petitioners themselves that the land to the extent of Ac.29.00 has been made over to the temple in the year 1975 and they do not want to claim right or ownership with respect to the said property, there can be no impediment on the part of the 3rd respondent to enter the said aspect into the registers maintained under Section 43 of the Act subject to verification of any third party claims.

Accordingly, the writ petition is allowed setting aside the proceedings dated 04.03.2006, issued by the 3rd respondent in O.A.No.2 of 2006. No order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

Date:14.11.2016,
Gk.

CHALLA KODANDA RAM,J

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