

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT APPEAL No.794 of 2016

30.08.2016

Between:

Gangaram Dayama

..Appellant

And

The State of Telangana,
represented by its Principal Secretary,
Revenue Department (Endowments),
Hyderabad and others

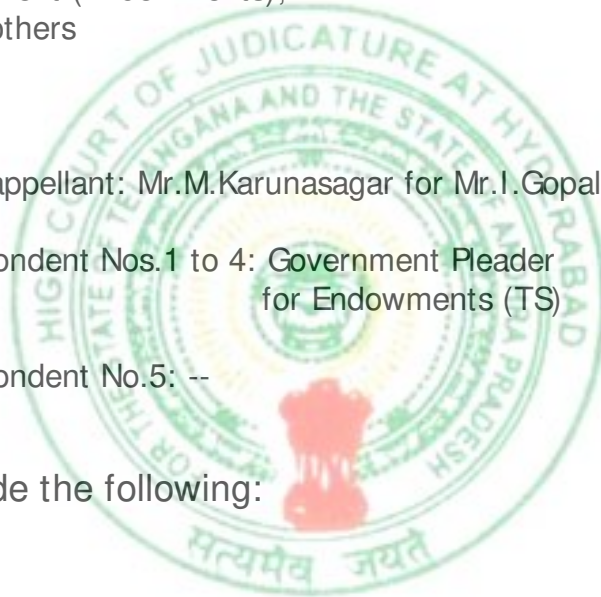
..Respondents

Counsel for the appellant: Mr.M.Karunasagar for Mr.I.Gopal Sharma

Counsel for respondent Nos.1 to 4: Government Pleader
for Endowments (TS)

Counsel for respondent No.5: --

The Court made the following:



JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The appellant, who claimed to be performing archakathvam in Sri Laxmi Narayana Temple, Devi Road, Nizamabad – respondent No.5, a registered temple under the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, was asked to stop performing archakathvam on the ground that he crossed 65 years of age. This action was challenged in W.P.No.16952 of 2016. The learned Single Judge dismissed the writ petition on the ground that the appellant failed to show any rule, under which, it is permissible for him to continue beyond 65 years of age.

2. At the hearing, Mr.M.Karunasagar, learned counsel representing Mr.I.Gopal Sharma, learned counsel for the appellant, has submitted that his client was appointed as an Archaka by the Hereditary Trustee before the temple was taken over by the Endowments Department and that in the absence of any prohibition, he is entitled to be continued beyond 65 years of age. He has, however, candidly admitted that the Endowments Department has not issued any proceedings appointing the appellant as an Archaka.

3. The learned Government Pleader for Endowments (TS) appearing for respondent Nos.1 to 4 has submitted that under Rule 9 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Office Holders and Servants Service Rules, 2000 (for short 'the Rules'), all the employees in the temples, including the Archakas, shall retire at the age of 58 years, whether they were appointed prior to or after the commencement of the Rules and that therefore, the appellant, who was continued up to 65 years, was rightly retired. In support of her submission, she has placed before us, a Division Bench judgement of this Court in Principal Secretary to Government vs. Chadavada Koteswara Rao¹.

¹ 2002(1) ALD 537 (DB)

4. A perusal of the aforesaid Division Bench judgement shows that it was held therein that all the employees, including the Archakas, appointed prior to or after the commencement of the Rules are liable to be retired on completion of 58 years. No statutory provision or any executive instruction is placed before us by the appellant in support of his claim for his continuance beyond 65 years of age. Hence, in the light of the above indisputable position in law, the learned Single Judge rightly dismissed W.P.No.16952 of 2016.

5. The learned counsel for the appellant has, however, submitted that the son of the appellant, who is eligible to be appointed as an Archaka, made an application to respondent No.4 to appoint him so in respondent No.5 temple and a direction may be issued to respondent No.4 to consider such appointment. We are afraid, we cannot issue such a direction. However, if such an application is made, respondent No.4 shall consider it, take a decision thereon, in accordance with law, and communicate the same to the applicant, within a period of one month from the date of receipt of a copy of this order.

6. Subject to the above direction, the Writ Appeal is disposed of.

7. As a sequel to disposal of the Writ Appeal, W.A.M.P.No.1928 of 2016 filed by the appellant for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

30th August, 2016
GHN