

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19044 of 2008

ORDER:

This Writ Petition is filed questioning the docket order, dated 01.04.2008 passed by the first respondent - Deputy Commissioner of Endowments, Guntur, dismissing an unnumbered I.A.No.____ of 2008 filed by the petitioner club seeking to implead the proposed persons as party respondents 3 to 5 in O.A.No.101 of 2006.

It is the case of the petitioner club that the second respondent – Sri Visweswara Swamy Temple, Tadepalli Village and Mandal, Guntur District, had initiated proceedings under Section 83(1) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, by way of filing O.A.No.101 of 2006, against the petitioner, before the first respondent, seeking to declare it as an encroacher and to pass orders for removal of such encroachment and its eviction from the schedule land. In the said O.A., the petitioner filed counter stating that the hereditary archakas of the second respondent temple i.e., respondents 3 to 5 in the Writ Petition, entered a lease agreement dated 30.12.1992 in its favour for a period of 25 years and the said lease would expire only on 30.12.2017.

The said unnumbered I.A. is filed mainly on the ground that the petitioner acquired rights through respondents 3 to 5, as such, they are proper and necessary parties for determination of the issue in O.A. The second respondent dismissed the said I.A. holding that the proposed parties are not necessary parties.

Learned counsel for the petitioner submits that the petitioner had acquired rights only through respondents 3 to 5 as such they are proper and necessary parties for proper adjudication of O.A. and their presence in O.A. would enable the first respondent to determine the issue whether the petitioner is an encroacher of the schedule land.

Learned Standing Counsel appearing for the second respondent filed counter and resisted the Writ Petition.

Heard the respective counsel and considered the material available on record.

It is not in dispute that the first respondent is the competent authority for determining whether a person, who is in occupation of the properties belonging to the religious institutions, is an encroacher or not. The scope of enquiry under Section 83 of the Act is for determination of status of a person in occupation of the properties belonging to the religious institutions. It is an admitted

fact that it is the petitioner alone who is in possession of the schedule land belonging to the second respondent. The method and manner under which it came to acquire such right and the question whether the same is legal or not are required to be determined by the first respondent in exercise of the power conferred under Section 83 of the Act. Once it is an admitted fact that it is the petitioner alone who is in occupation of the schedule land, impleadment of the persons, through whom, it acquired such right would become irrelevant except in the cases where there is a dispute with regard to the title. However, in the present case, there is no dispute with regard to the title of the second respondent over the schedule land. In the circumstances, this Court finds that respondents 3 to 5 are not necessary parties for determination of the aspect whether the petitioner is an encroacher or not of the schedule land belonging to the second respondent.

There are no merits in the Writ Petition, which is accordingly dismissed. In view of the fact that adjudication of O.A. has been held up on account of pendency of this Writ Petition for over a period of 8 years, the petitioner shall pay costs of Rs.5,000/- to the second respondent. The first respondent shall dispose of O.A.No.101 of 2006 in accordance with law, within a

period of three months from the date of receipt of a copy of the order.

Miscellaneous Petitions, if any pending in this Writ Petition, shall stand closed.

CHALLA KODANDA RAM, J

22nd DECEMBER, 2016.

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