

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.777 of 2012

JUDGMENT:

This appeal is filed questioning order dated 08.05.2007 in O.A.No.64 of 2005 on the file of Deputy Commissioner, Endowments Department, Kakinada, passed under Section 84 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act')

2. Appellant herein is respondent in O.A.No.64 of 2005. According to respondent herein, appellant is an encroacher of Temple land. Sri Venugopala Swamy Temple, Jangareddygudem, represented by its Manager, filed application under Section 83 of the Act contending that appellant is in occupation of schedule property and that Deputy Commissioner of Endowments, Kakinada, passed order directing appellant herein to hand over vacant possession to respondent institution within thirty days from the date of receipt of the order and failing which liberty was given to the Endowments Department to proceed under Section 84 of the Act.

3. The main grievance of appellant is that he was not given any opportunity and it is an ex parte order.

4. Advocate for appellant submitted in a similar set of facts, this Court dismissed the appeal by giving liberty to the alleged encroacher to approach the Tribunal under Rule 11(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Tribunal Rules (for short, 'the Rules'), by filing a petition to set aside the ex

parte order and contest the case.

5. Advocate for respondent opposed the request of advocate for appellant on the ground that appellant herein is enjoying the property since 2012 without paying any money to the Temple and that the order passed by the Deputy Commissioner of Endowments, Kakinada, is not an ex parte order. In reply, advocate for appellant contended that appellant is claiming ownership and therefore there is no necessity of payment of any amount.

6. Considering the submissions of both sides and as the order of the Deputy Commissioner of Endowments, Kakinada, is not on merits, I deem it appropriate to give opportunity to appellant to put-forth his defence to contest the matter.

7. For the reasons mentioned above, appellant is given liberty to approach the Tribunal under Rule 11(2) of the Rules, within thirty (30) days from today and on such application, the Tribunal shall dispose of that application within two months thereafter in accordance with law. It is made clear that if application is not filed within the time granted, respondent herein is given at liberty to proceed further.

7. With the above direction, this appeal is dismissed as not maintainable.

8. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

8th March 2016.

Note:

Issue C.C. by tomorrow.

(b/o)

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