

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.21984 of 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India to declare the orders passed by the 3rd respondent – The Andhra Pradesh Endowments Tribunal, in O.A. No.1041/ 2014, dated 26.07.2016, as illegal and arbitrary and consequently, set aside the final order passed the above O.A.

It is the case of the petitioner that his grand father donated an extent of 1500 square yards of land for construction of the 2nd respondent Temple on the request of the villagers through a gift deed in the year 1957. The petitioner and his father are doing business of coconuts and cool drinks, by erecting shops in the remaining land in the northern side of the temple. While so, in the year 1999, the Trust Board of the Temple approached the petitioner and requested him to give the land in which the petitioner's shop is situated and to shift his shop to the western side of the temple. Subsequently, the respondents 1 and 2 filed an application under Section 83 of the Endowments Act, before the 3rd respondent in OA No.1041 of 2014. After separation of the States, the 3rd respondent was constituted by the Andhra Pradesh Government. The cases pending before the erstwhile Tribunal were transferred to the newly constituted Tribunal i.e. the 3rd respondent, and O.A. No.1041 of 2014 was decided against the petitioner and order of eviction was passed on 26.07.2016 without giving any notice to the petitioner. Against the same, the present writ petition is filed.

Heard and perused the material available on record.

The main grievance of the petitioner is that without there being any order of transfer of pending cases before the erstwhile Endowments Tribunal of A.P., to the newly constituted Tribunal, the pending cases were transferred to the 3rd respondent; that after transfer also, the 3rd respondent has not issued any notice to the petitioner before taking up the case and that without issuing any notice to the petitioner and without giving any opportunity of hearing him, the impugned order was passed by the 3rd respondent.

Learned Government Pleader for Endowments submitted that a notice was served on the petitioner by the 3rd respondent, but the petitioner failed to appear before the 3rd respondent and remained ex-parte.

Upon perusing the record and on consideration of the facts and circumstances of the case, this Court is of the view that the matter can be remanded to the 3rd respondent for fresh consideration, after giving an opportunity to the petitioner.

Hence, the writ petition is allowed setting aside the order, dated 26.07.2016, in O.A. No.1041/ 2014 passed by the 3rd respondent, and the matter is remanded to the 3rd respondent for fresh consideration and disposal, after issuing notice to the petitioner.

No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

July 20, 2017
KTL