

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.13590 of 2011

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Respondents 1 and 2 and Sri A.Srikanth Reddy, learned Standing Counsel for Respondent No.3.

2. The petitioner herein claims to be the owner and possessor of land to an extent of Ac.0.09 cents in Sy.Nos.662/1 and 2 of Mydukur village and mandal, Y.S.R. Kadapa district. On the proposals made by the Assistant Commissioner of Endowments, Kadapa, the Deputy Commissioner of Endowments, Kurnool initiated proceedings under Section 83 of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act 30/87) (for short 'the Act') for eviction.

3. Pending the said proceedings, vide old O.A.No.95 of 2001, certain amendments were carried out to the Endowments Act, vesting the said power under Section 83 to the Tribunal and as a result of the same, the said O.A. stood transferred to the A.P. Endowments Tribunal, Hyderabad. Subsequently, the Tribunal, by way of judgment under challenge, allowed the O.A. and directed eviction of the petitioner from the schedule land. This writ petition challenges the validity and legal sustainability of the said judgment dated 20.12.2010.

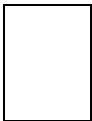
4. It is contended by the learned counsel for the petitioner that the Tribunal passed the questioned order without issuing any notice either to the petitioner herein or to his counsel after transfer and that the same is a patent violation of principles of natural justice, besides being contrary to the object of the Act.

5. On 30.4.2011, this Court while ordering rule nisi, granted interim stay as prayed for and the said order is still subsisting. It is specifically stated in the affidavit filed in support of the writ petition that after transfer of the O.A. from the file of Deputy Commissioner of Endowments to the Tribunal, no notice was given either to the petitioner or to his counsel. The said averment is not disputed by the Respondents by way of filing counter. Therefore, the said averment is required to be treated as correct. If that being so, the very order passed by the 1st respondent-Tribunal is liable to be set aside and the matter needs to be remanded to the Tribunal for fresh disposal strictly in accordance with law, after giving notice and opportunity to the petitioner herein.

6. Accordingly, the writ petition is allowed, setting aside the order passed in O.A.No.803 of 2010 (old O.A.No.95 of 2001) dated 20.12.2010 passed by the 1st respondent-Tribunal and the said O.A. stands restored to file for fresh disposal strictly in accordance with law after giving notice to all the stakeholders. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 30.10.2017
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30.10.2017

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