

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

C.M.A.No.127 of 2017

ORDER:

This appeal is filed under Section 84(2) of the Endowments Act, 30 of 1987 read with amended Act 33 of 2007 challenging the orders dated 17.01.2017 in O.A.No.912 of 2011, on the file of the Telangana Endowments Tribunal, Hyderabad.

Heard both the counsel.

A perusal of the record reveals that respondents 1 and 2 herein have filed O.A.No.912 of 2011 on the file of the Telangana State Endowments Tribunal, Hyderabad for eviction of the petitioners herein from the petition schedule property. A perusal of the record further reveals that the petitioners have filed counter opposing the claim of the respondents 1 and 2. The Tribunal by order dated 17.01.2017 allowed the said O.A. declaring the petitioners as encroachers and directed them to remove the encroachment and to deliver vacant physical possession of the O.A. schedule property to the second respondent temple.

The main contention of the learned counsel for the petitioners is that no opportunity was given to the petitioners to adduce oral and documentary evidence in support of their case.

The learned counsel for the respondents 1 and 2 in all fairness submitted that no oral or documentary evidence was adduced by the petitioners.

It is needless to say that the Court or the Tribunal has to afford a reasonable opportunity to the parties to the proceedings to adduce oral and documentary evidence in order to substantiate their respective stand. A perusal of the record reveals no opportunity was given to the petitioners to substantiate their case by adducing oral and documentary evidence there by to demolish the stand of the respondents. A perusal of the record further reveals that the evidence of P.W.1 was eschewed. Interestingly, no opportunity was given to the petitioners herein even to cross-examine P.W.2. The very purpose of cross-examination of a witness is to ascertain the truth or relevant information which will throw some light on the controversy involved in the proceedings. The litigant public should not feel that the Tribunal shuts its doors without giving a reasonable opportunity to them to ventilate their legitimate and legal grievances.

Having regard to the facts and circumstances of the case, I am fully agreeing with the submissions made by the learned counsel for the petitioner. I am of the considered view that it is a fit case to remand the matter.

Having regard to the facts and circumstances of the case, the orders dated 17.01.2017 in O.A.No.912 of 2011 on the file of the Telangana Endowments Tribunal at Hyderabad is hereby set aside and the matter is remanded to Endowments Tribunal, Hyderabad, for disposal, afresh, after affording a reasonable

opportunity to both parties to adduce oral and documentary evidence.

With the above direction, C.M.A. is allowed. Miscellaneous Petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

3rd April 2017.
Rns

