

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.24564 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“to declare the inaction of the respondents in acting upon the petitioner’s representation, dt.16.04.2017 for effecting appropriate corrections/changes in the register maintained under Section 43 of the Endowments Act No.30 of 1987, in relation to Sri Lakshmi Ganapathi Temple, Bikkavole, Bikkavole Mandal, East Godavari District, A.P., as illegal, arbitrary, violative of Article 26 of the Constitution of India and amounting to abdication of statutory duty mandated under the provisions of the Endowments Act No.30 of 1987 and consequently direct the respondents 2 to 4 to take appropriate action thereupon and to effect such corrections/changes in the said register.”

(Reproduced verbatim)

2. I have heard the submissions of the learned counsel for the petitioner and of the learned Assistant Government Pleader for Endowments for respondents 1 to 4. I have perused the material record.

3. The case of the petitioner is this: The property is an absolute private property of the writ petitioner. In the year 1992, the Tahsildar, Bikkavole, granted a patta in respect of the subject site in Survey No.409/2 of Bikkavole Village and that later, a house was constructed in the said patta property. The petitioner, who is a Trustee-cum-Archaka of the subject property, and his family are residing in the said property since a long time. While so, this property was entered in the Register of Endowments being maintained under Section 43 of the Endowments Act No.30 of 1987. Aggrieved thereof, the petitioner gave a representation.

The present writ petition is filed to act upon the said representation, dated 16.04.2017, of the writ petitioner and make necessary corrections in the register recognising the right, title and interest of the petitioner over the subject property.

4. On behalf of the 5th respondent, a counter affidavit has been filed *inter alia* asserting that the temple is registered under Section 43 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987, (Act No.30 of 1987) and that the subject property is an endowed property and that it is under the administrative control and management of the Endowment Department and that the Gram Panchayat also issued endorsement that the subject property belongs to the subject temple and that if the petitioner is aggrieved by the entries in the Register of Endowments being maintained under Section 43 of the Act No.30 of 1987, his remedy lies elsewhere and that he is obliged to approach the Endowments Tribunal under Section 45 of the said Act; and, hence, on facts as well as under law, the writ petition is not maintainable.

5. At the hearing, learned counsel for the petitioner would submit that in view of the contentions raised by the 5th respondent in the counter affidavit, the writ petition may be disposed of as withdrawn reserving liberty to the petitioner to approach the Endowments Tribunal and file an appropriate proceeding seeking appropriate relief as required under facts and in law. He would further submit that the interest of the petitioner may be protected for a brief period till the petitioner takes steps for availing the said alternative remedy.

6. Having regard to the submissions, the Writ Petition is disposed of as withdrawn reserving liberty to the petitioner, as sought for. However,

since the petitioner is admittedly in possession of the subject property, there shall be an order directing the respondents not to interfere with the possession of the petitioner for a period of two (02) months from today.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE M. SEETHARAMA MURTI

Date: 31st October, 2017

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