

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Miscellaneous Appeal No.798 of 2017

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 84 (2) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act No.30 of 1987), by the unsuccessful respondent is directed against the order and decree, dated 15.02.2017, passed by the learned Tribunal at Amaravathi, Pedakakani, in O.A.No.276 of 2015.

2. At the stage of admission, I have heard the submissions of the learned counsel for petitioner/respondent in the aforesaid OA and of *Smt. K. Lalitha*, learned Standing Counsel appearing for respondent No.1–Temple, and of the learned Government Pleader for Endowments appearing for respondent No.2 and perused the material available on record.

3. Learned counsel for the petitioner would bring to the notice of this Court that the order impugned is an *ex parte* order and submits as follows:

“The petitioner has got voluminous documentary evidence, evidencing his possession and enjoyment over the subject property. Even according to the admitted case of the 1st respondent–Devasthanam, the petitioner is in possession of the subject property. In the circumstances stated in the affidavit, in detail, he remained *ex parte*. He is prepared to file appropriate application before the Tribunal to set aside the said *ex parte* order, which the law permits. Hence, an opportunity may be given to him to contest the O.A. on merits by granting him a reasonable time and protecting his interest until such time.”

4. *Smt. K. Lalitha*, learned Standing Counsel appearing for respondent No.1, while supporting the orders of the Tribunal, forcibly

contended that the petitioner ought to have approached the Tribunal as per the provisions of Rule 11(3) of the A.P. Charitable and Hindu Religious Institutions and Endowments Tribunal Rules, 2010 (for brevity "the Tribunal Rules") seeking to set aside the *ex parte* order, which is impugned in this appeal, instead of approaching this Court directly and that, therefore, the appeal is not maintainable and liable for dismissal.

5. I have given detailed and earnest consideration to the facts & circumstances and I have perused Rule 11(3) of the Tribunal Rules.

6. Having regard to the facts and submissions and the legal position obtaining, this Court is satisfied that this appeal can be disposed of at the stage of admission with appropriate directions.

7. Accordingly, the Civil Miscellaneous Appeal is disposed of reserving liberty to the petitioner to approach the Tribunal and file appropriate application/s for setting aside the *ex parte* order, dated 15.02.2017, in O.A.No.276 of 2015, within three weeks from the date of receipt of a copy of this order. It is needless to state that on the petitioner filing any such application/s, the Tribunal shall give an opportunity to the 1st respondent – Temple as well as the 2nd respondent and shall decide the same on merits, strictly in accordance with the procedure established by law. Till the petitioner files such application/s, as directed in this order, the order impugned shall remain stayed.

8. It is needless to mention that the Tribunal is at liberty to grant any orders of stay, if sought for by the petitioner, during the pendency of the application/s now directed to be filed within three weeks. It is made clear that on failure of the petitioner to file application/s, as

directed in this order, the order impugned shall be enforced in accordance with the procedure established by law.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

M. SEETHARAMA MURTI, J

07.08.2017
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