

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

WRIT PETITION No.7637 of 2006

Date: 24-07-2017.

BETWEEN:

Nuli Nageswar Rao

...Petitioner.

AND

The Regional Joint Commissioner,
Multi Zone-1, Endowments Department,
Kakinada, East Goadavri District and others.

...Respondents.



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ORDER:

Order dated 29-08-2005, passed by the Regional Joint Commissioner, Multi Zone-I, Endowments Department, Kakinada in Revision Petition No.18 of 2005, confirming the order of the Deputy Commissioner, Endowments Department, Kakinda in O.A.No.16 of 1999, dated 10-12-2004, is under challenge in the present writ petition.

2. Heard the learned counsel for the petitioner, learned Government Pleader for the respondents 1 to 3 and Smt K. Lalitha for the fourth respondent.

3. On the proposals submitted by the Assistant Commissioner of Endowments, Vijayawada dated 19-09-1998 under Section 83 of the Endowments Act, enquiry under the said provision of law was taken up by the Deputy Commissioner of Endowments, Kakinada vide O.A.No.16 of 1999. The Deputy Commissioner on 10-12-2004, passed an order of eviction against the petitioner herein, holding him as an encroacher in respect of the subject property. Aggrieved by the said order, petitioner herein filed a revision under Section 92 of the Endowments Act and the Regional Joint Commissioner-first respondent herein, vide the order under challenge, dismissed the said R.P No.18 of 2005. According to the learned counsel for the petitioner the impugned order is erroneous, contrary to law and is opposed to the very object of the Endowments Act 1987. It is further contended by the learned counsel that without affording reasonable opportunity of

hearing, the Deputy Commissioner of Endowments passed the order of eviction.

4. On the contrary, it is contended by the learned Government Pleader for Endowments so also the learned Standing counsel for the 4th respondent-temple that there is no illegality nor there exists any procedural infirmity in the impugned orders and in the absence of the same, the orders impugned are not amenable for any judicial review under Article 226 of the Constitution of India. It is further contended by the learned Advocates that after thoroughly verifying the entire material on record, both the authorities, passed the orders under challenge as such no interference of this Court is not warranted.

5. A perusal of the order passed by the Deputy Commissioner of Endowments reveals that the Deputy Commissioner registered O.A.No.16 of 1999, on the basis of the proposals made by the Assistant Commissioner of Endowments under Section 83 of the Act. After registration of the said case, the Deputy Commissioner issued notice to the respondent/petitioner herein and in response thereto, a counter was also filed before the Deputy Commissioner in the said O.A.No.16 of 1999. Taking into consideration the factum of absence of the respondent/petitioner herein on 10-12-2014, the Deputy Commissioner closed the evidence on behalf of the petitioner herein. A reading of the said order further discloses that the respondent-institution filed documents to show its rights over the petition schedule property and taking into consideration of the same, the Deputy Commissioner ordered removal of encroachment. The Regional Joint Commissioner, on the revision

filed by the petitioner herein, passed the impugned order. The Regional Joint Commissioner also considered the documents filed by the temple and the failure on the part of the petitioner herein to prove the existence of any valid reasons in his favour and ultimately confirmed the orders of the Deputy Commissioner. This Court does not find any perversity in the said orders passed by the respondent-authorities to exercise the jurisdiction under Article 226 of the Constitution of India. It is also the submission of the learned counsel for the petitioner that despite the efforts made, he could not secure the grounds of revision filed before the first respondent.

6. For the aforesaid reasons, the writ petition is dismissed. No costs.

7. Miscellaneous petitions pending consideration, if any, in this writ petition, shall stand closed in consequence.

Date: 24-07-2017
mrh

JUTICE A.V.SESHA SAI