

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELENGANA AND THE STATE OF ANDHARA PRADESH**

**CIVIL REVISION PETITION Nos.5099, 5098, 5087 &
5130 of 2016**

Between:

CRP.No.5099 of 2016

S. Anjana Reddy

.....Petitioner

And

Palvoi Ranga Reddy and 3 others

.....Respondents

CRP.No.5098 of 2016

The Executive officer and another

.....Petitioners

And

Madineni Sudhakar and 5 others

.....Respondents

CRP.No.5087 of 2016

S. Anjana Reddy

.....Petitioner

And

Mekala Prabhakar Reddy and another

.....Respondents

CRP.No.5130 of 2016

S. Anjana Reddy

.....Petitioner

And

M. Nagarjun Reddy and another

.....Respondents

Date of Judgment pronounced on : 05-01-2017

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes/No
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

*** HON'BLE DR. JUSTICE B. SIVA SANKARA RAO****+ CIVIL REVISION PETITION Nos.5099, 5098, 5087 & 5130 of 2016**

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< GIST:**> HEAD NOTE:**

! Counsel for the petitioners : Sri D.Sudarshan Reddy

^ Counsel for the respondents : Smt. Annapurna Sri Ram

? Cases referred

1. 2009 (2) ALT 431 (DB)=(2) ALD 356
2. 2010 (6) ALD 207
3. 1987 (1) ALT 18 (DB)
4. AIR 1969 SC 78
5. AIR 1975 SC 2238
6. AIR 1967 SC 436
7. 2010 (14) SCC 588
8. AIR 2010 SC 2897
9. 2012 (3) ALD 411
10. 2012 (2) ALT 294
11. 2009 (12) SCC 613
12. 2009 (12) SCC 544
13. 2012 (7) SCJ 487
14. 2009 (2) ALD 124

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO**CIVIL REVISION PETITION Nos.5099, 5098, 5087 &
5130 of 2016****COMMON ORDER:**

These 4 revision petitions since involving common question of law are taken up at request for common adjudication.

2. Coming to the facts, the Executive Officer of Bansuriwala Krishna Mandir, Saidabad, Hyderabad, shown as adopted temple to Sri Hanuman Temple, Karmanghat, Hyderabad, as 1st defendant and with name as S.Anjana Reddy S/o. Dasi Reddy being the Executive Officer also in the individual capacity as 2nd defendant in whatever manner supra impleaded in O.S.No.976 of 2014 (originally as O.S.No.1833 of 2013) that is maintained by the 3 plaintiffs against him individually and in the capacity of Executive Officer and by showing another defendant by name Sudarsan Yadav, in the capacity of Ex-chairman of Karmanghat Hanuman Temple.

3. They maintained the suit for the relief permanent injunction restraining the defendants and any others claiming through or acted under them from changing nature of suit schedule property by way of alienation or raising structures therein which consists of open house bearing No.17-1-382/H/11 admeasuring 320 square yards in S.No.110 in Hanuman Nagar, Balaji Nagar new of Saidabad Village and Mandal of Hyderabad District within the boundaries described with the claim of they purchased the property from Smt. N.Andalu W/o. Sudhakar Reddy under registered sale deed No.286, dated 24.10.2004 who purchased from Dr. Niranjana Prasad the owner. It is the further

claim of illegal interference followed by forceful dispossession of the 3 plaintiffs from the suit schedule property supra by the defendants supra on 20.07.2013 and demolished all of a sudden the boundary wall, the structure and started leveling of houses through debris by changing nature of the property without notice or right or title over the property.

4. Coming to O.S.No.6 of 2014 the 3 plaintiffs maintained the same against defendant Nos.1 and 2 and three more defendants no other than Assistant Commissioner for Endowments, R.R. District, Retired Assistant Commissioner by name Sri K.Raghunanda Rao of R.R. District and Commissioner of Endowments, Boggulakunta, Hyderabad, for damages of Rs.18,00,000/- with interest from date of suit till realization on the claim that plaintiff No.1 is absolute owner of plot Nos.18 & 25 admeasuring 519 square yards of Balaji Nagar, Saidabad, with rooms and compound wall and plaintiff No.2 is absolute owner of plot No.17 admeasuring 205 square yards of Balaji Nagar (Hanuman Nagar) Hyderabad with 5 rooms and got by registered settlement No.2149 dated 22.06.2004 and original plaintiff No.3 is the owner of plot No.17 and one room in plot No.19 measuring 150 square yards of Balaji Nagar, Saidabad, by registered gift deed No.2146 dated 22.06.2004 and they purchased the property which is part of S.No.110 of Saidabad from the owner Dr. Niranjan Prasad. The suit claim further is that the defendants demolished compound wall, ground floor with 6 rooms and took away valuable material and the demolition was done on 01.05.2013 by violation of status quo orders in I.A.No.245 of 2013 in O.S.No.944 of 2013 suit for bare injunction and they got cause of action towards the

defendants for the suit reliefs including for physical and mental torture, loss of good will and prestige and damages for demolition of the rooms and they also filed W.P.No.21780 of 2013 challenging the demolition and the High Court observed for entitlement of damages to seek and therefrom also they got cause of action.

5. The suit O.S.No.687 of 2013 is filed by sole plaintiff Mekala Prabhakar Reddy, for the relief of delivery of possession of the plaint schedule in favour of plaintiff and for permanent injunction restraining the two defendants of the temple supra from interfering with plaint schedule and costs with averments of plaintiff is owner of plot No.3 measuring 178 square yards in S.No.110 pursuant to sale agreement dated 12.04.2000 from S. Jeetu Prasad who purchased under registered sale deed dated 08.09.1996 from Dr. Niranjana Prasad the owner. The further averments in the plaint are that the defendants all of a sudden on 20.07.2013 came with 4 JCBs with antisocial elements and demolished boundary wall and also structures in some properties and leveled 6 to 7 plots under threat which the plaintiff and others could not resist and as per muntaqab of the year 1950 temple is granted inam in S.No.78 of Karmanghat and not S.No.110 Saidabad and notice even sent to the defendants by the colony president before filing of the suit in cause of action and hence entitled to relief.

6. The sole plaintiff filed the suit in O.S.No.688 of 2013 for possession of the plaint schedule property consisting of plot No.4 admeasuring 173 square yards of S.No.110 of Balaji Nagar, Saidabad village and claiming title under gift deed dated

03.08.2013 in favour of plaintiff with the boundaries described with claim of Dr. Niranjan Prasad the owner of Ac.1-20 guntas sold to various people by forming layout including to one Jeetu Prasad from whom Smt. Muthyala Suvarna purchased and executed gift deed dated 28.07.2007 to his sister who in turn executed gift deed dated 03.08.2013 in favour of the plaintiff. The other averments are like in the pleadings of the other plaintiffs referred supra that on 20.07.2013 the defendants came with JCBs leveled some plots by demolishing wall etc and taken possession and hence plaintiff is entitled to the reliefs.

7. It is with claim of all plaintiffs common in all the suits that an inam was given 80 years ago to one Sri Bhagawan Das Pujari by the then Hyderabad Nizam to an extent of Ac.2-35 guntas and said Bhagwan Das sold away the same to Sri Jagannath Prasad Shukla 60 years ago and after death of said J.P. Shukla his only son Dr. Niranjan Prasad having succeeded the property and executed General Power of Attorney (for short 'GPA') in favour of one L.Sashank Reddy for Ac.1-20 guntas out of S.No.110 of Saidabad Village, Hyderabad, to obtain Occupancy Rights Certificate (for short 'ORC') from the Revenue Divisional Officer, Hyderabad (for short 'RDO') and the GPA holder applied for ORC on 13.04.1992 and the RDO issued notice to all interest persons, conducted enquiry with reference to the records and granted ORC to Dr. Niranjan Prasad for Ac.1-20 guntas vide proceedings No.B/6326/1990 dated 13.04.1992 basing on continuous possession and enjoyment by Jagannath Prasad and his son Dr. Niranjan Prasad since 1955 till date including during 1993 for the entitlement as per Andhra Pradesh (Telangana Area) Abolition

of Inams Act, 1955 (for short 'the Act 1955) since amended and consequently Dr. Niranjana Prasad became absolute owner for said Ac.1-20 guntas and pursuant to the ORC he formed layout and sold houses to various persons.

8. It is averred therefrom that the defendants on behalf of the temple having kept an evil eye over the property are, are troubling and interfering with plaintiffs and other house owners of Balaji Nagar Colony supra despite resistance through their Colony President M.Chandrasekhar Reddy and on 20.07.2013 with antisocial elements with 4 JCBs and about 100 people, defendants came to the schedule property and thrown out the tenants and watchman and demolished the boundary wall and also structures in some property and dumped 100 lorries of debris and leveled 6 to 7 houses under threat and the plaintiff and other neighbours though chosen to resist could not against the antisocial elements of defendants from the defendants grabbing the land of the plaintiffs and others in collusion with the revenue, police and local political people and there is cause of action to the suit therefrom. It is also the averment that as per munthaqab dated 14.02.1950 that Bansuriwala Krishna Mandir presently known as Kishanjee Temple was in S.No.84 of Karmanghat Village, R.R. District and the temple is nothing to do with S.No.110 of Saidabad Village in which the suit property is part and it is purely a private land of the original owners supra and the plaintiffs who lost possession are under the apprehension that defendants may create third party interest in maintaining the suit.

9. The 1st defendant on behalf of the temple filed written statements in all the suits respectively while denying the respective plaint averments and claim in the suits and any entitlement and existence of any cause of action to the respective plaintiffs and also on jurisdiction of civil Court and maintainability of the suits including from the special provisions of the Endowments Act, No.30 of 1987 (for short 'the Act') with adjudicating authority provided particularly from the bar laid down under Section 151 of the Act and also for bare injunction not maintainable, but for if at all for declaration of title and there is also Endowments Tribunal duly constituted to decide any dispute or question or other matter as per Section 162 of the amended Act and thereby also the suit is not maintainable. It is also the contention that the property belongs to the temple and it is endowed inam and there is also bar to the maintainability of civil suit. It is also the contest that there is no prior suit notice under Section 80 CPC. It is also contended that no private person got any right over the property including plaintiffs or their predecessors in title alleged much less with any possession as of right. The service holder given inam for rendering service to the temple and thereby any alienation unauthorizedly made by the service holder, who is no other than mere trustee to enjoy while in service for the inam burdened with service the alienees cannot get any right. Dr. Niranjan Prasad through GPA filed application under Section 7 of the Act 1955 to the RDO for ORC for Ac.1-20 guntas in S.No.110 of Saidabad Village stating the land as mafi inam granted in the name of Sri Bhagawan Das Pujari from whom his father J.P. Sukhla purchased and they are in continuous possession. In fact there is no any permission for sale

of the endowment land and ORC could not have been granted and from the appeal filed and on remand, the RDO passed the order on 14.06.2013 rejecting their claim and cancelling the ORC, by issuing ORC in favour of the temple as owner and pattadar and there was also panchanama taking possession of the open land and those having houses made representation of ready and willing to regularize their occupations by payment of amounts to be fixed by the Commissioner of Endowments and await action therefrom and open land is leveled after taken possession by the Endowment Department which is approximately Ac.2-10 guntas and in use as parking place for vehicles etc., of devotees of the temple and the contra averments are unsustainable.

10. It is with the contest the defendant temple filed applications to decide as preliminary issue on maintainability of the suit from the 5 issues framed including of maintainability for want of jurisdiction as issue No.1. The 4 revisions filed are for not deciding preliminary issue on the applications kept pending and in ordering trial on all issues settled in the suits respectively.

11. In all the four revision petitions, it is the common contention that the trial Court ought to have been framed preliminary issue as sought for from the bar of jurisdiction to the Civil Court, but for to the Endowments Tribunal constituted under the Act No.30 of 1987 from reading of Section 151 of the Act and framing of issues and putting on all issues for trial without answering to decide preliminary issue on bar of jurisdiction and very maintainability of the suit is by non application of mind and by non-consideration of the requirement under Order XIV Rule 2(b)

CPC and hence to pass just orders by revising the impugned order of the lower Court.

12. The learned counsel for the revision petitioners supra reiterated the said grounds of revision. Whereas it is the contention of the respondents/plaintiffs to the revisions that there is no necessity to decide preliminary issue and when the trial Court framed the issues including on jurisdiction to decide on all issues after full dressed trial and there is nothing to interfere for this Court and it is the claim that it is private property and once it is private property there is nothing to say suit is not maintainable from there is inherent lack of jurisdiction and therefore, the revisions are liable to be dismissed. It is also the submission that all issues are to be decided in the suit and not disposal by decision on one issue.

13. Heard both sides with reference to the provisions covered by Order XIV Rule 2 CPC and Order XX Rule 5 CPC and also with reference to Sections 151 and 162 of the Act No.30 of 1987 amended by Act No.33 of 2007 with effect from 03.01.2008 including the Gazette notification issued pursuant to the amendment constituting the Endowments Tribunal with Chairman, Member and other staff respectively for its functioning by framing the rules and perused the material on record.

14. Now coming to decide the lis covered by the revisions, it is firstly in need to refer Order XX Rule 5 & Order XIV Rule 2 CPC.

14(a). Order XX Rule 5 CPC speaks that in suit in which issues have been framed, the Court shall state its finding or

decision, with the reasons there for, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit.

14(b). Order 14 Rule 2 CPC reads that:

“2. Court to pronounce judgment on all issues.- (1)

Notwithstanding that a case may be disposed of on a preliminary issue, the court shall, subject to the provisions of sub-rule (2), pronounce judgment on all issues.

(2) Where issues both of law and of fact arise in the same suit, and the court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to—

(a) the jurisdiction of the court, or

(b) a bar to the suit created by any law for the time being in force, and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.”

14(c). From its combined reading as also answered by this Court in CCCA.No.128 of 2009 dated 02.12.2015 between Smt. Maimoona Begum Vs. G.Sarat Babu on the scope of Order XX Rule 5 read with Order XIV Rule 2 CPC particularly from Paras 7 & 8 of the judgment, a combined reading of these provisions make it abundantly clear on question of law regarding jurisdiction or other legal bar to a suit once required to be decided and if was decided holding lack of jurisdiction or for other legal bar to maintain the civil suit there is no need to deal with other issues for practically the Court therefrom becomes functus officio. In this regard there is no any inconsistency between the two provisions. It is to say at the cost of repetition that if the Court gives any finding on the preliminary issue of lack of jurisdiction or other legal bar

inherently which goes to the root of the matter, Court cannot decide the lis on merits and consequently functus officio.

15. Having regard to the above and because Section 151 of the Act also speaks that no suit or other legal proceeding in respect of administration or management of an institution or endowment or any other matters of dispute for determining or deciding, for which provisions is made in this Act shall be instituted in any Court of law except under and in conformity with the provisions of this Act, it requires to decide jurisdiction and maintainability as a preliminary issue.

16. Section 2 Sub Section 8 of the Act defines Court for maintainability of any suit before any civil Court. A civil suit even not maintainable other than before the Court defined in Section 2 (8) of the Act. No doubt the City Civil Court in Hyderabad in the municipal corporation limits of Hyderabad got jurisdiction within the meaning of Court within territorial jurisdiction irrespective of pecuniary limitation under Section 6 of CPC and from the provisions of the Civil Courts Act 1972, read with Section 2(8) of the Act supra provided there is no legal bar to civil suit. Once there is a legal bar, civil suit wont lie but for to approach the other machinery provided under the Act to decide the lis from the wording of Section 151 of the Act referred supra.

17. On the scope of Section 151 of the Act, a Division Bench of this Court in **Sanjeeva Anjaneya Swamy Devastanam, Rajahmundry, rep. by Archaka-cum-Trustee v. Thakkula**

Dasaradha Ramaiah¹ held that when there is a provision in the Act to get relief, no civil suit lies in regular civil Court under Section 9 of CPC from said bar contemplated by Section 151 of the Act.

18. Here it is important to mention that by virtue of the amendment by Act No.33 of 2007 to the Act No.30/1987 which empowers the Government to constitute as many as Tribunals as it may think fit for purposes of the Act, for the determination of any dispute, question or the matter relating to charitable institution, dharmadaya religious charity, religious endowments, religious institutions or any institution defined in the Act and also defines the local limitation and jurisdiction of each of such Tribunal. Sub Section 1 of Section 162 speaks the above. Sub Sections 3 to 5 of Section 162 speak that the Tribunal shall consist of Chairman and one more member to be appointed by the Government and the Chairman must be or has been a Judicial Officer not below the rank of District Judge and the Member not below the rank of Additional Commissioner of Endowments who holds or as held a post and the Government may reconstitute the Tribunal may or abolish the Tribunal and the manner of taking decision and the procedure to be followed in conducting the proceedings are as may be prescribed.

19. No doubt a single Judge expression of this Court in **E.O. SBMS Temple, Beeramguda Vs. Saikrupa Homes**² held that the Tribunal constituted under the Act No.30/1987 is not competent to decide the issue of title and suit for declaration of title would not

¹ 2009 (2) ALT 431 (DB)=(2) ALD 356

² 2010 (6) ALD 207

fall within the purview of the authorities under the Act within the prohibition under Section 151 of the Act.

20. Even in said expression of E.O. SBMS Temple supra what is referred the Division Bench expression of this Court in **Pindi Jaggayya Vs. Deity of Seetharamaswamy Varu**³. Pindi Jaggayya supra is prior to the amended Act No.33 of 2007 and there is no provision similar to Section 162 in existence by then and a close reading of the decision one way shows concurrent jurisdiction. From the expression in E.O. SBMS Temple supra only in a case of declaratory relief sought, a civil suit can be maintained from the concurrent jurisdiction to that extent and it no way shows any other aspects.

21. In fact the law is fairly settled on implied ouster of civil Court from the expressions of the Apex court in **Dhulabhai And Others Vs. The State of Madhya Pradesh**⁴ that was also followed in **Premier Automobiles Ltd Vs. Kamlekar Shantaram Wadke of Bombay**⁵ and even the expression in **VR Reddy Vs. KS Reddy**⁶ is under the Endowments Act 1967 and not under the Act 1987 for no such, much less same or similar provisions to Section 151 of the Act shown in existence, apart from Section 162 by Act No.33/2007 introduced is a new provision similar to the provision of the Wakfs Act No.43 of 1995.

22. Sections 83 & 85 of the Wakf Act, 1995 contain similar to the wordings of Section 162 (1) of the Amended Act No.33/2007 providing by constitution of the Tribunal for the determination of

³ 1987 (1) ALT 18 (DB)

⁴ AIR 1969 SC 78

⁵ AIR 1975 SC 2238

⁶ AIR 1967 SC 436

any dispute, question or the matter of any institution defined in the Act. In interpreting the provisions of the Wakf Act supra particularly Section 83, the Apex Court in **Board of Wakf, West Bengal Vs. Anis Fatma Begum**⁷ also referred to and explaining the earlier expression in **Ramesh Gobindram (Deceased by LRs) v. Sugra Humayun MirzaWakf**⁸ held categorically that, the Tribunal got exclusive jurisdiction since conferred to decide any question, dispute or other matters relating to Wakf or Wakf board.

23. Relying upon said expression of Anis Fatima supra, this Court in **Srinivas Rao v. State of A.P.**⁹ held that even revenue authorities have no jurisdiction to decide the nature of land and to grant ownership rights either under the Telangana Tenancy Act 1950 or AP (TA) Tenancy and Agricultural Lands Act, 1950 or for determination of issuing ORC under the Act 1955 and Wakf Tribunal alone got exclusive jurisdiction to decide for the aggrieved parties to approach the Tribunal to decide any dispute, question or other matters in relation to Wakf or Wakf Tribunal.

24. In CRP.No.5844 of 2011 between **Mohd Ameerullah Died per L.Rs. Vs. the A.P. State Wakf Board**, this Court by order dated 07.09.2016 also observed in this regard particularly from Paras 6 to 8 that once the lands are notified as wakf lands, but for the dispute to decide by the Wakf Tribunal under Sections 83 and 85 of the Wakf Act, 1995 and the revenue authorities neither under AP (TA) Tenancy Act, 1950 nor under Abolition of Inams Act, 1955 got jurisdiction to decide any dispute, question or other matter in relation to the wakf property by also referring to

⁷ 2010 (14) SCC 588

⁸ AIR 2010 SC 2897

⁹ 2012 (3) ALD 411

the expressions supra. It is also answered contextually of the provision covered by Section 162 (1) of the Amended Act No.33/2007 to the Act No.30/1987 is with similar wording of Sections 83 & 85 of the Wakf Act. Thereby the civil Court has no jurisdiction since exclusive jurisdiction conferred on the Tribunals under the provisions of the 2 Acts.

25. From this it is also necessary to mention particularly with reference to the Act No.30/1987 amended by 33/2007 incorporating Section 162 of the Act and also from Section 151 of the Act, another expression of this Court in **Jampani Trilokeswari v. Dharmadoyatopu, rep. By its fit person**¹⁰ where it was held that civil Court has no jurisdiction but for the Endowments Tribunal and earlier the Deputy Commissioners who were having exclusive jurisdiction by virtue of the wording of Sections 151 and 162 of the Act.

26. From the above and after introduction of Section 162 (1) by the amended Act 33 of 2007, which provides for the constitution of the Endowments Tribunal to decide any dispute, question or other matters in relation to any institution under the Act. It is in fact pursuant to which and by G.O.Ms.No.837, Revenue (Endowments I) Department dated 13.08.2009 read with G.O.Ms.No.180 dated 28.02.2011 the Endowments Tribunal is constituted and is functioning with procedure in relation to deciding all the disputes with exclusive jurisdiction ousting thereby civil courts' jurisdiction.

¹⁰ 2012 (2) ALT 294

27. Further the expressions of the Apex Court in **Omprakash Singh Vs. M.Lingamaiah¹¹, V.Lakshmi Narasamma v. A.Yadaiah¹² and State of Gujarat Vs. Gujarat Revenue Tribunal Bar Association¹³** the Tribunals as per legal fiction be deemed as civil Courts and also got jurisdiction to go into and decide any title dispute even and can decide with all attributes of a civil litigation, no doubt subject to disclosure of jurisdictional facts. Once such is the case any dispute including title dispute when the Tribunal can decide, civil courts' jurisdiction is ousted and for that matter including of any other Tribunal including the Tribunals under Enams Abolition Act.

28. In fact in relation to the similar claim maintained against the 1st defendant institution in CRP.No.2385, 2230 and 2359 of 2016 referring to Section 151 of the Act where a preliminary issue was asked to decide among the 5 issues formulated on want of jurisdiction by virtue of bar under Section 151 of the Act, it is observed with a direction to **decide** as preliminary issue as per Order XIV Rule 2(b) CPC out of the issues settled, in relation to the jurisdiction because of the bar contained under Section 151 of the Act No.30/1987.

29. In W.P.No.10606 of 2006 in relation to the issue of ORC in favour of Sri Anjaneya Swamy Temple, Nalgonda District by judgment dated 18.03.2009 it was held that for adjudication of the dispute Section 87 of the Act No.30/1987 enables including to establish the contention of land does not belong to the temple and to grant any ORC in favour of private persons and the writ is

¹¹ 2009 (12) SCC 613

¹² 2009 (12) SCC 544

¹³ 2012 (7) SCJ 487

disposed of by leaving open to Section 87 of the Act. The same is stated subject matter of W.A.No.1243 of 2009 with stay of operation. In fact irrespective of the writ petition order of the learned single Judge is subject matter of W.A. with stay of operation, the single Judge expression of Srinivas Rao supra referring to the expressions of the Apex Court in Anis Fatima supra is when very clear under Section 83 of the Wakf Act of any dispute, question or other matter exclusively to be decided by the Tribunal and not even by the revenue authorities under the AP (TA) Abolition of Inams Act, 1955. Once same is clear equally from the wording of Section 162 of the Act No.30/1987 amended by 33/2007 from the Endowments Tribunal is constituted and procedure for its functioning laid down and is functioning and the Tribunal as per the expressions supra particularly of **Om Prakash supra, Gujarat Revenue Tribunal Bar Association and V. Lakshmi Narasamma supra**, got all the traits of the civil Court and even can to go into and determine any title dispute and because Section 87 of the Endowments Act also enables including from Sections 151 and 162 of the Act which provide a bar for other authorities but for exclusive jurisdiction to the Endowments Tribunal to determine all disputes, questions or other matters in relation to any existence including as to entitlement of any title or grant of ORC or entitlement to tenancy rights etc., for the other authorities there is implied ouster of jurisdiction, but for to the Endowments Tribunal.

30. No doubt a single Judge expression of this Court in **Mir Sadath Ali Vs. Joint Collector, Ranga Reddy District**¹⁴ observed that AP (TA) Abolition of Inams Act 1955 is a self contained one providing for internal mechanism to resolve every dispute arising thereunder conferred power on RDO to decide all issues which arise in course of arising into claims under Section 4(18) of the Act including the issues in relation to succession and thereby not necessary to relegate the parties to civil court for adjudication on question of succession, that decision one way shows a Tribunal provided with mechanism to decide a dispute can got into the title and decide all disputes and parties cannot be relegated upon civil court jurisdiction but for the special jurisdiction conferred on the Tribunal.

31. In fact, subsequent to the provisions of the Act 1955 supra once by virtue of the Act No.30/1987 there is exclusion of jurisdiction from Section 151 of the Act which is no doubt subject to Section 77 of the Act which enables with concurrent jurisdiction to approach the RDO for suo motu enquiry even by him to decide nature of inam, once the Act is amended and Section 162 is incorporated by Act No.33/2007 enables to decide any dispute, question or other matter in relation to any institution under the Act for that matter to decide any entitlement of occupancy rights under the Act 1955 or any protected tenancy rights under Act 1950, the Tribunal constituted under the Endowment Act is since functioning as discussed supra with the procedure and mechanism that alone is having exclusive jurisdiction and not the other forums including to exercise any concurrent jurisdiction.

¹⁴ 2009 (2) ALD 124

32. In fact as referred supra, out of the 4 suits, one is for damages, two are for possession and one is for bare injunction and none of the suits are for declaration sought by any of the plaintiffs for the property much less with the claim as private property so to declare despite the ORC granted in favour of private person Dr. Niranjan Prasad was on appeal by the temple authorities of the Endowments Department remanded and ORC originally issued in 1992 was cancelled and consequently ORC issued in favour of the temple by the primary authority-RDO under the Act 1955.

33. From the above, once there is inherently and prima facie, lack of jurisdiction to the Civil Court but for to approach the Endowments Tribunal and prima facie from the facts the ORC granted in favour of the vendors or predecessors in title of the respective plaintiffs of the four suits in 1992 were already cancelled and ORC granted in favour of the temple under the Act 1955, still to claim as private property or to question the ORC from Section 87 of the Act enables the remedy is to approach prima facie the Endowments Tribunal and not by civil suits.

34. From the material appearing on the record when such is the case the lower court has gravely erred in not considering the application to decide the preliminary issue the lack of jurisdiction of the civil Court.

35. Having regard to the above, all the four revisions are allowed by directing the lower Court to decide the jurisdictional aspect as a preliminary issue within the meaning of Order XIV Rule 2 (b) with Order XX Rule 5 CPC with reference to Sections 151 read with 162 of the Act and the notifications issued in

G.O.Ms.837 dated 13.08.2009 and G.O.Ms.No.180 of 28.02.2011 and other connected Gazette notifications relevant, if any, and further read with Sections 83, 84 and 87 of the Act No.30/1987 amended by Act No.33/2007.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 05.01.2017

Note: L.R. Copy to be marked

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