

SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos.14115 and 26155 OF 2016

COMMON ORDER:

Since the parties and the issue involved in both the writ petitions are similar in nature, they were heard together and being disposed of by this common order. The parties as arrayed in W.P.No.14115 of 2016 are referred to hereinafter as such for the sake of convenience.

In W.P.No.14115 of 2016, the Notice in Rc.No.C5/621/2016, dated 05.03.2016, issued by the 2nd respondent, is challenged in the present Writ Petition on the ground that the Executive Officer of the temple, Sri Brahmaramba Mallikharjuna Swamy Vari Devasthanam, Srisailam, has no jurisdiction to enquire into the affairs and disputes *inter se* between the petitioners' society viz., Sri Sri Sri Pururava Vamsa (Mudiraj-Koli) Nitya Annadana Samajam, Srisailam (in short "the Society"), and the 4th respondent. Whereas, in W.P.No.26155 of 2016, the proceedings bearing reference No.C2/775/2008, dated 15.04.2008, issued by the 2nd respondent, permitting the merger of petitioner's Society with Sri Sri Sri Pururava Vamsa (Mudiraj, Koli) Nitya Annadana Charitable Trust (in short "the Trust") is challenged.

It is the case of the petitioners that the 1st petitioner is a Society and has entered into an agreement dated 26.09.1992 with Sri Brahmaramba Mallikharjuna Swamy Vari Devasthanam, agreeing to take a portion of the property, belonging to the temple, for the purpose of running Nitya Annadana Satram. The said agreement is subsisting and there are no arrears or dues payable to the temple. While the things stood thus, on account of the

certain disputes between the members of the Society and the 4th respondent, who was the son of original profounder of the Society, 4th respondent instigated 2nd respondent to issue a notice dated 05.03.2016, which is illegal and the same is under challenge in the Writ Petition.

Sri A. Sreekanth Reddy, learned Standing Counsel for the 2nd respondent, submits that the notice dated 05.03.2016 is only to ascertain who is in the affairs of the petitioner Society and it is not for the purpose of interfering with any of the affairs of the petitioners as well as the 4th respondent.

Sri C. Raghu, learned counsel appearing on behalf of 4th respondent, submits that admittedly, the father of the 4th respondent was the founder of the Society and, as a matter of fact, the Society has resolved to merge with the Trust, which was created by the father of the 4th respondent, and to that affect 2nd respondent was intimated and he had accepted the same vide proceedings dated 15.04.2008, and in fact was dealing with the Trust. In these circumstances, learned counsel submits that on a complaint made by his client, the Executive Officer of the temple sought certain information and no prejudice as such would be caused to the petitioners, if the information as sought by the 2nd respondent is submitted.

Having considered the respective submissions it is well settled in law that the Society cannot be converted into a Trust as both are governed by different enactments. The Society is required to be arranged its affairs in terms of the Societies Registration Act, 1860 (in short "the Act"). So far as the 2nd respondent is concerned, he does not have any statutory powers to conduct

inquiry in relation to the affairs of the Society. The limited extent of responsibility which lies with the 2nd respondent is to ensure the terms of the agreement entered into between the temple and the Society are implemented in letter and spirit. A perusal of the impugned notice discloses that the same was initiated at the instance of the 4th respondent's complaint.

In those circumstances, the action of the 2nd respondent in issuing Notice dated 05.03.2016 is unauthorised. Therefore, Writ Petition No.14115 of 2016 is allowed setting aside the Notice dated 05.03.2016 issued by the 2nd respondent.

With respect to the matter in W.P.No.26155 of 2016, there is no procedure known to law of converting a Society into a Trust. The impugned proceedings dated 15.04.2008, considered an application, said to have been made by the 4th respondent, for converting the Society and merging the same into the Trust. Inasmuch as, there is no such procedure and statutory sanction for such thing, the so called permission granted in the impugned proceedings dated 15.04.2008 are nonest. Accordingly, Writ Petition No.26155 of 2016 is allowed and the impugned proceedings dated 15.04.2008, issued by the 2nd respondent, is set aside.

However, it is made clear that the 2nd respondent shall be entitled to seek information with respect to the management and the persons, with whom the temple is required to deal with, in relation to the agreement entered into between the temple and the petitioners' Society. It is also made clear that the limited observations made in these writ petitions shall not be construed as expressing any opinion with respect to the rights of the parties and

disputes between the petitioners' Society and the 3rd and 4th respondents, which are pending in Civil Courts, which are required to be decided in accordance with law.

Accordingly, these writ petitions are allowed. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

CHALLA KODANDA RAM, J

Date:13.03.2017.

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