

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.21835 OF 2017

O R D E R :

This writ petition is filed against the order dated 03.01.2017 passed in OA.No.248 of 2015, by the 4th respondent-A.P.Endowments Tribunal at Pedakakani, Guntur District, wherein the Tribunal allowed the application filed by the respondents 2 and 3 herein under Section 83 of the A.P.Charitable and Hindu Religious Institutions and Endowments Act 30 of 1987 (*for short 'the Act'*), by ordering eviction of the petitioner herein.

2. Learned counsel for the petitioner contends that the petitioner is residing in the subject land for the last more than 25 years with civil amenities like electricity and water connections provided to the land in question, and without affording any opportunity to the petitioner of being heard in the matter, the Tribunal passed the impugned order. As such, the same is in violation of principles of natural justice and liable to be set aside.

3. On the other hand, Sri A.Srikanth Reddy, learned Standing Counsel appearing for the 3rd respondent-Temple and learned Assistant Government Pleader for respondents 1 and 2 submits that petitioner has an alternative remedy of filing either an appeal under Section 84(2) of the Act against the impugned order before this Court, or an application under Rule 11(3) of the A.P.Charitable and Hindu Religious Institutions and Endowments Tribunal Rules, 2010 (*for short 'the Rules'*) made under the Act, as such, the writ petition cannot be entertained.

4. Section 84(2) of the Act which provides for appeal against the impugned order and the relevant rule, Rule 11 (3) of the Rules which provides for an application to set aside ex-parte order, reads as follows:-

“84. Mode of eviction on failure of removal of the encroachments as directed by the Endowments Tribunal:-

(2) Noting in sub-section (1) shall prevent any person aggrieved by any order of the Endowments Tribunal under sub-section (4) of Section 83 from preferring an appeal before the High Court to establish that the Charitable or religious Institution or Endowment has no title to the land, building or space.”

“Rule-11. Dismissal for default *ex-parte* decree:-

Sub-section (3) On an application, the Tribunal can restore an application dismissed for default or set aside the order setting the respondent ex-parte or set aside the ex-parte order passed in the main application or interlocutory application on sufficient cause being shown, to the satisfaction of the Tribunal after giving an opportunity to the opposite party to oppose the application.”

5. In view of the above, it is open for the petitioner, if so advised, to exhaust the remedy of either filing a restoration application before the Tribunal as provided under Rule 11(3) of the Rules or file appeal before this Court under Section 84 (2) of the Act.

6. Accordingly, the writ petition is dismissed granting liberty to the petitioner to avail alternative remedies as indicated above. There shall be *Status quo* regarding possession in respect of subject land for a period of two weeks enabling the petitioner to avail alternative remedies. If the petitioner fails to avail the remedies within the stipulated period, it is open for the respondent authorities to take action as per law. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

Dated: 04.07.2017
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A.RAJASHEKER REDDY, J

