

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 13679 of 2007

ORDER:

1) Assailing the order of the Joint Collector, Ranga Reddy District, dated 02.06.2007, wherein the order of the Revenue Divisional Officer in granting Occupancy Rights Certificate is *set aside*, the present writ petition is filed.

2) The facts in issue are as under:

The petitioner herein claims to be a inamdar and possessor of agriculture land in Sy.Nos.11, 12, 55, 56 and 70 admeasuring Ac.2.18 gts., Ac.1.39 gts., Ac.1.02 gts., Ac.2.11 gts., and Ac.1.29 gts., respectively, totally admeasuring Ac.9.19 gts., situated at Badangpet Village, Ranga Reddy District. The said lands were held by great grand father of the petitioner namely late Raghava Chary and the said lands are Mafi Personal Inam Lands. After his death, his son namely Sesha Chary succeeded to his estate and thereafter Narasimha Chary succeeded to the schedule lands and his name started appearing in the records as inamdar/ possessor. The averments in the affidavit show that the family of the petitioner was in possession of the land since last 130 years and the revenue records namely Sethwar, Kasra and Pahanies showing their name as inamdars and possessors of the

schedule land. The father of the writ petitioner made an application in Form No.1 for grant of occupancy right certificate under Section 4 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short "the Act") before the Revenue Divisional Officer-Second Respondent on 10.03.1987. After calling for the objections from the general public and from the Assistant Commissioner of Endowments, the second respondent issued the Occupancy Rights Certificate in favour of the petitioner. After the demise of the father of the petitioner, the petitioner came on record as his legal heir. After considering all the aspects and following due process of law, the second respondent granted occupancy rights under Section 4 of the Act in favour of the petitioner, vide proceedings dated 14.02.1989, which is subject to payment of premium amount equal to 25 times of Land Revenue. On the basis of the order passed by the Revenue Divisional Officer, the petitioner made an application, pursuant to which the Assistant Commissioner issued a memo dated 27.01.1998, informing the petitioner that the said temple is not registered under Section 38 of the Act 17/ 1996 or under Section 43 of the Act 30/ 1987. The third respondent also issued proceedings L.Dis.No.C/ 2861/ 2000 dated 27.11.2000 informing the petitioner that there are no entries in the book of Endowments in respect of

the temple. Thereafter, the petitioner was granted ryotwari pass books. It is also to be noted here that pursuant to a complaint given against the father of the petitioner, in the year 2000 one B.Suresh, Inspector of Endowments, who was appointed as single trustee of Balaji Venkateshwara Swamy Temple, filed an appeal before the Joint Collector under Section 24 of the Act against the order of the Revenue Divisional Officer, dated 14.02.1989. After considering the material on record, the impugned order came to be passed in the year 2007 overruling the order passed by the Revenue Divisional Officer in granting Occupancy Rights Certificate infavour of the petitioner. Challenging the same, the present writ petition came to be filed.

3) Earlier, the Joint Collector, *set aside* the order of the Revenue Divisional Officer in his proceedings dated 18.03.2002. Aggrieved by the same the petitioner preferred C.R.P.No. 1799 of 2002 before this Court. By an order dated 19.06.2003 this Court *set aside* the order of the first respondent, remanded the matter back to consider the same afresh more particularly with regard to delay of 11 years in filing the appeal under Section 24 of the Act. Pursuant to the remand, the matter was considered and the impugned order came to be passed.

4) By an order dated 11.09.2007 this Court directed the respondents to maintain *status quo* with regard to all entries in the revenue records pursuant to the order of the Joint Collector, Ranga Reddy District, in Case No.F1/ 5813/ 2006 dated 02.06.2007.

5) A counter came to be filed by third respondent disputing the averments made in the affidavit filed in support of the writ petition. As per the counter, the temple is the absolute owner of the land and the Inams Register prepared by the District Collector would show that the land belongs to the temple. It is said that these lands were also shown as Munthakab. It is averred that the petitioner, who is a poojari of the temple manipulated the records to grab the temple lands. According to them, the petitioner made an application under Section 4 of the Act for grant of Occupancy Rights Certificate by misrepresenting the factual aspects. It is said that the Revenue Divisional Officer has passed an order without issuing any notice to the temple authorities and without considering the basic records. Hence, it is urged that the order under challenge warrants no interference.

6) Reiterating the averments made in the affidavit filed in support of the writ petition, learned counsel for the petitioner would submit that earlier the order of the Joint

Collector was challenged before this Court in C.R.P.No1799 of 2002. While remanding the matter back, this Court directed the Joint Collector to consider the matter on certain aspects which were never dealt with by the first respondent in the impugned proceedings. He further submits that in the absence of any explanation with regard to the delay of 11 years in filing the appeal, the order under challenge needs to be *set aside*.

7) Apart from that the learned counsel for the petitioner took me through the pahanies of the year 1973-74 to show that the name of the father of the petitioner was shown as the person in possession of the lands and the Sethwar also indicates that these lands were classified as Mafi Inam and the name of one Sesa Chari was shown in the cultivation column.

8) Learned counsel for the respondents would submit that the land which is subject matter of dispute is a fallow land lying within the compound of the temple. According to him, the third respondent took over the management of the temple on 27.04.2000 and thereafter Mr.Suresh, who has been appointed as a single trustee preferred an appeal. Therefore, it is urged that the delay in filing the appeal is neither willful nor wanton.

9) Though no counter is filed by the Government Pleader for Endowments, but he relied upon the Register of Inam and Patta Lands of Institutions of Hyderabad and Ranga Reddy district to show that the land is in the name of the temple and that the priest of the temple is personally cultivating the lands and is paying the funds. According to him, these records were subsequently manipulated by the petitioner.

10) In order to appreciate the rival arguments it would be appropriate to refer to the order passed by this Court in C.R.P. No.1799 of 2002. While remanding the matter back, this Court directed the authority to dispose of the appeal afresh, by applying the proviso to Section 4 of the Act. The Court further held that the appellate authority failed to consider the two points raised therein, namely the delay in filing of the appeal and the competency of B.Suresh to maintain the appeal as a single trustee.

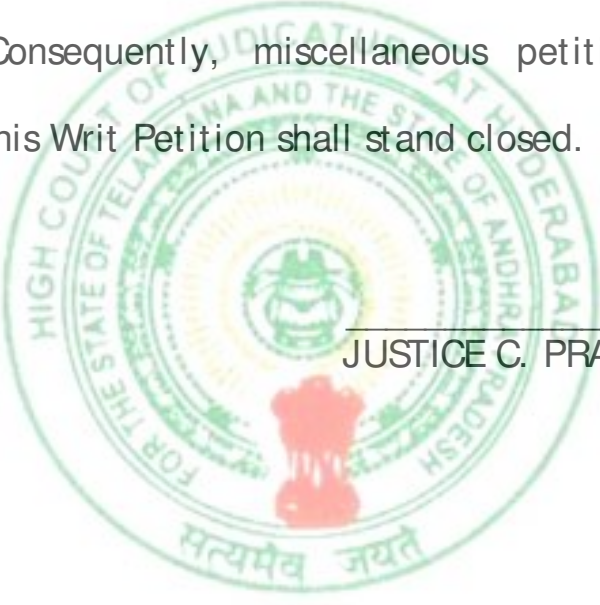
11) A reading of the impugned order does not anywhere indicate consideration of the said aspects. Though the order of the High Court was referred to in the impugned proceedings but for reasons best known, the first respondent failed to consider the said issues, though raised not only before the Joint Collector in the earlier round of proceedings but also during the impugned proceedings. Without

considering the said aspect and also as to whether the Single Trustee can prefer an appeal, proceeded to hold that the petitioner failed to establish his status as an inamdar. He only referred to the entry made in the Register of Inam and Patta Lands of Institutions of Hyderabad and Ranga Reddy District before coming to the conclusion that the land belongs to Venkateswara Swamy temple. In fact, the same issue was raised in the earlier round of litigation, but this Court remanded the matter back to the first respondent to decide the case on merits, without relying on the proviso to Section 4 of the Act. The documents which have been placed on record, namely the pahanies for the year 1973-74 and entries made in the Sethwar, were never considered by the first respondent while deciding the proceedings. In fact the Revenue Divisional Officer perused these documents and has come to conclusion that the petitioner is in possession of the land as on the date of vesting ie.20.07.1955 and on the crucial date ie. 01.11.1973. The Joint Collector being an appellate authority under the statute, should have decided the case on merits by taking into consideration all the objections raised and also as to how the order of the Revenue Divisional Officer is incorrect. Being an appellate authority under the Act, he cannot pass a cryptic order without giving reasons to the conclusions arrived at and also as to how the

documents relied upon by the petitioner before the Revenue Divisional Officer are irrelevant.

12) Hence, the order under challenge is *set aside* and the matter is remanded back to the Joint Collector to decide the same on merits and also on the aspect of delay in filing of the appeal. Till such time, the interim order dated 11.09.2007 passed by this Court shall be in force.

13) Accordingly, the writ petition is disposed of. No order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.



JUSTICE C. PRAVEEN KUMAR

22.08.2017
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