

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.20975 of 2012

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner requesting to declare the action of the first respondent in appointing a single trustee to Sri Kodandarama Swamy Temple, Tenali Town and Mandal, Guntur District, vide proceedings in Rc.No.A8/2970/2012, dated 07.06.2012, as illegal, arbitrary and opposed to law and Section 15 (2) of The Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 ('the Act', for brevity).

2. I have heard the submissions of Sri M.Adinarayana Raju, learned senior counsel appearing for Sri M.Vidya Sagar, learned counsel for the writ petitioner and of learned Standing Counsel for the 2nd respondent – temple. I have perused the material record.

3. The case of the petitioner, in brief, is this:

He hails from the family of original founder late Ponnuru Venkata Subba Rao, who donated a major amount for the construction of the temple along with Gadepally Seetaravamma. He was instrumental in all the later developments of the temple including installation of Dhvajasthambham and also Punaha Pratishtha that was undertaken in the year 1949. He is an interested person as defined under Section 18 of the Act. Sri Kodandaramaswamy Temple was originally built in the year 1935 by Gadepally Seetaravamma with active involvement of her husband Gadepally Venkata Subba Rao. The site on which the temple is constructed was donated by Seetaravamma. Ponnuru Venkata Subba Rao,

who is the other important person involved in the construction of the temple, is the father of the petitioner. The petitioner, along with his father, involved himself in the construction of the temple by spending major funds for the construction of the temple. Though the temple was originally constructed with two small deities, it attained full form after it was decided to conduct Punaha Pratishta in the year 1949 and a big temple was constructed and later Dhvajasthambham was installed and sub temples of Vighneswara and Navagrahas were constructed within the vicinity of the site donated by Seetaravamma. Thus, by the year 1991, the temple attained its full form. Seetaravamma, who is a philanthropist, donated Ac.1.00 cents of land for performance of Dhoopa, Deepa and Naivedyam to the deity without any let or hindrance. As per her wish, the land donated by her has to be enjoyed by the Archaka of the temple and the usufruct derived from the land shall be spent on the rituals to be performed in the temple. Apart from the above said land, Acs.0.80 cents of land was also donated, which is equivalent to 3,200 square yards in Balajiraopet; and it is worth crores of rupees as on the date of institution of the writ petition. Even till the date of institution of writ petition, neither a Hundi was installed in the temple premises nor were public donations collected for performance of the rituals and festivals of the temple. The temple was constructed with the sole aim that the temple shall survive on its own without public donations and that it shall remain in the management of philanthropic persons who are involved in running of the administration of the temple for fulfilling the aims and objectives of the original donor of the land and also the wishes of the father of the petitioner. However, in total violation of the procedure contemplated

under the Act and without notice to the persons in management of the temple and without undertaking the registration, the temple has been classified under the provisions of the Act. The temple is a self-sufficient temple and is able to survive on its own without any donations from the public and attained character of a private temple; and, therefore, the provisions of the Act are not attracted to the temple. The temple is under the administration of the petitioner and the administration is being run by a group of members from the Society, who are philanthropists and interested in serving the temple without any motives. The temple is also adopted by Hampi Peetham. The said Peetham selected the persons, including the petitioner, for administration of the temple. The petitioner is maintaining the accounts relating to the activities of the temple and looking after the revenue. While so, it appears that a report relating to the temple was given by the Assistant Commissioner, Endowments, Guntur District, to the Deputy Commissioner, Endowments, Guntur District, without the knowledge of the petitioner. Further, while taking drastic steps for denying the petitioner of his right to manage the temple, the principle of natural justice warranting a prior notice were violated. In the proceedings impugned, it is alleged that the exercise of appointment of a single trustee to the temple was undertaken in the interests of the public and for better administration. The very appointment of a single trustee is in gross violation of the statutory provisions of the Act. There was no sufficient cause and no reasons were recorded for appointment of a single trustee instead of a Board of Trustees. No reasons warranting a drastic action of appointment of a single trustee for the subject temple are assigned. The said action, which was taken to deprive the petitioner's

right of management, is a *mala fide* exercise. Some vested interests are involved in the said exercise of appointment of a single trustee. The petitioner understands that the said exercise was done with the aim of grabbing the valuable land belonging to the temple.

4. *Per contra*, the case of the first respondent, as stated in the counter affidavit, in brief, is this:

The Assistant Commissioner, Endowments, Guntur District, sent a report, dated 24.03.2012, to the first respondent stating as under: 'That upon receiving a phone call regarding the allegations of the management of the temple, he visited the temple, on 02.03.2012, and came to know that the temple is having a valuable site of 2,400 square yards at Balajiraopet and also valuable agricultural land at Yadavarru village of Amarthaluru Mandal of Guntur District and another shopping complex at Tenali town and that the temple is under the management of the self styled committee headed by the writ petitioner and that the petitioner did not produce any record pertaining to the temple and, therefore, the Assistant Commissioner, Endowments, Guntur District, requested the Inspector, Endowments Department, Tenali, Guntur District, to enquire into the matter and submit a detailed report and that the Inspector, Endowments Department, submitted his report and that in the said report of the Inspector it is stated that another institution by name Sri Ramananda Yogeswara Dharmasala was attached to the temple and that it is having one acre of land and a vacant site of Acs.0.82 cents and also three shops at Old Bus Stand, Tenali Town, Guntur District, and that the said Dharmasala is also having Acs.2.00 cents of land at Jampani village

and Acs.3.00 cents of land at Kankipadu village of Krishna District and that the said lands are valuable as they have highest potential value and that the institution is also having one tiled house, which was given as residence to the Archaka, and that for non production of the income returns at any time, the institution is being assessed as NNA and that the Inspector was orally informed that the management of the temple was handed over to Hampi Peetham, but no records were produced in that regard and hence, the Inspector recommended for appointment of the nearest Executive Officer as a single trustee to the said institution to set right the administration and to take possession of the properties of the temple.' In the said report of the Assistant Commissioner, Endowments, he finally requested the first respondent to consider the report of the Inspector and pass necessary orders for appointment of the nearest Executive Officer- H.Prasad, Executive Officer, Chinaraavuru Group temples, as a single trustee to set right the management of the temple. Therefore, the said Executive Officer was duly appointed as single trustee *vide* proceedings dated 07.06.2012, which are impugned. The said single trustee took oath of office on 06.07.2012 and entered the office and intimated the petitioner about his appointment and requested him to handover the entire movable and immovable properties of the temple within a week. No permission was granted by the authorities of the Department for handing over the management of the temple to Hampi Peetham as mentioned in the case of the petitioner. No permission or approval of the competent authority was obtained by the petitioner either under Section 145 or under Section 154 of the Act, for handing over the temple to the Hampi Peetham. Only in the interest of public and for better administration, the powers under Section

15(2) of the Act were exercised by appointing the nearest Executive Officer as a single trustee to the temple. The writ petition is devoid of merit and is liable to be dismissed.

5. The case of the second respondent, as can be seen from its counter affidavit, is on the same lines as was stated in the counter affidavit of the first respondent.

6. At the hearing, the learned counsel for the writ petitioner and the learned Standing Counsel appearing for the 2nd respondent – temple advanced arguments in line with the respective pleaded cases of the parties, which are stated *supra*, in detail, while extracting the pleaded cases of the parties.

7. Dealing with the first contention that the temple is not registered, it is to be noted that the 2nd respondent produced the proceedings, dated 12.11.1987, evidencing the fact that the subject temple is registered. In view of the production of the said proceedings, it can be safely concluded that the 2nd respondent temple is duly registered under the provisions of the Act. Therefore, the first contention of the petitioner that the temple is a private temple is devoid of merit.

8. Coming to the next contention of the petitioner that he is an interested person and he has got *locus standi* to file the writ petition, it is to be noted that even as per the case of the petitioner, one Gadepally Seetaravamma donated the site for building the temple and that the father of the petitioner was the other person who was actively involved in the construction of the temple, and that the petitioner also involved himself

along with his father in the construction of the temple by spending majority of the funds required for construction of the temple and that the subject temple was initially started with two small deities but attained full form over a period of time and that the petitioner fully participated in the development activities etcetera. Thus the pleadings of the petitioner disclose that it is not the case of the petitioner that he belongs to the family of the founder of the temple, Gadepally Seetaravamma. It is his case that since his father was the other important person who was actively involved in the construction of the temple on the land donated by the said Gadepally Seetaravamma, he belongs to the family of the original founder of the temple. On the very face of the averments in the writ petition, the petitioner cannot claim himself to be a member of the founder family of the temple. The temple was admittedly under the management of a self styled Committee of which the petitioner is one of the members or principal member. Even in the writ petition, it is stated that the temple is classified as 6 (c) temple under the provisions of the Act.

9. Now the aspect to be considered is as to whether the petitioner is entitled to a notice before the issuance of the proceedings, which are impugned. As already noted since the petitioner is not a member of the founder family of the temple, no prior notice is required to be issued to the petitioner before appointing a single Trustee to the temple, in the well considered view of this Court.

10. Coming to the next aspect as to whether there are adequate reasons for appointing a single Trustee by the Endowments Department, it is apposite to first refer to Section 15 of the Act, which reads thus:

15. Appointment of Board of Trustees:- In respect of a Charitable or Religious Institution or Endowment, –

(i) where the income for the institution exceeds Rs.20.00 crores (Rupees Twenty Crores) per annum, the Government shall constitute a Board of Trustees consisting of fifteen (15) persons;

(ii) where the income for the institution is between Rs.5.00 crores (Rupees Five Crores) to Rs.20.00 crores (Rupees Twenty Crores) per annum, the Government shall constitute a Board of Trustees consisting of eleven (11) persons;

(iii) where the income for the institution is between Rs.1.00 crore (Rupees One Crore) to Rs.5.00 crores (Rupees Five Crores) per annum, the Government shall constitute a Board of Trustees consisting of nine (9) persons;

(iv) where the income for the institution is between Rs.25.00 lakhs (Rupees Twenty Five Lakhs) to Rs.1.00 crore (Rupees One Crore) per annum, the Andhra Pradesh Dharmika Parishad shall constitute a Board of Trustees consisting of nine (9) persons.

(2) Where the income of the institution is between Rs.2.00 lakhs to Rs.25 lakhs per annum, the Commissioner shall appoint a Board of Trustees consisting of seven persons and where the income of the institutions is less than Rs.2.00 lakhs per annum, the Deputy Commissioner concerned may constitute a Board of Trustees consisting of five persons in respect of each such temple keeping in view the traditions, sampradayams and wishes of the devotees:

Provided that the Deputy Commissioner may either in the interest of the institution or endowment or any other sufficient cause or for reasons to be recorded in writing appoint a single trustee instead of a Board of Trustees:

Provided further that in the case of a religious institution, the Archaka or where there is more than one Archaka, the Pradhana Archaka thereof shall be an ex-officio member of the Trust Board notwithstanding clause (g) of sub-section (1) of Section 19:

Provided also that where the Board of Trustees is not constituted for any reason, the recognized Founder or Member of the Founder's family shall discharge the functions of the Board of trustees till a new Board of Trustees is constituted:

Provided also that where there is no Executive Officer or Founder Family member to any institution or where the Government or the authority competent to constitute a Trust Board has not constituted the Trust Board within the period specified under this sub-section, the Commissioner shall make such arrangement as he deems fit to look after the affairs of the institution during the interregnum period between the date of expiry of the terms of the Trust Board and constitution of the new Trust Board:

Provided also that two members of the Board of Trustees shall be a prominent person with long track record of Philanthropy and support to Hindu Religious Institutions.

11. From the facts borne out by the material on record it appears that after the Assistant Commissioner, Endowments, Guntur District, received a phone call regarding certain allegations in regard to the management of the temple, he visited the temple and came to know about the valuable assets of the temple and its management by a self styled committee headed by the petitioner and hence, requested the Inspector of Endowments, Tenali, Guntur District, to make an enquiry and submit a report and that the said Inspector made enquiry and submitted a report recommending for appointment of the nearest Executive Officer as a single trustee to the temple for setting right the administration and management of the temple and for taking over the possession of its valuable properties and, therefore, the Assistant Commissioner, Endowments, Guntur District, requested the first respondent herein/Deputy Commissioner, Endowments, Guntur District, to issue necessary orders and that pursuant thereto, the orders dated 07.06.2012, which are impugned in this writ petition, came to be issued. It is also the case of the respondents that the petitioner failed to produce any records when he was required so to do.

12. A plain reading of the provision of Section 17 of the Act discloses that the Deputy Commissioner in making the appointment of the Trustees under Section 15 of the Act shall have due regard to the religious denomination or any such section thereof to which the institution belongs or the endowment is made, and the wishes of the founder. Since Seetaravamma is the founder of the temple and the father of the petitioner is only involved in the construction activity and other activities of the temple and as the petitioner cannot claim to be a member of the family of Seetaravamma, the founder of the temple, and as it is felt expedient to act on the report of the Inspector of Endowments, Tenali, and Assistant Commissioner, Endowments, Guntur District, the Deputy Commissioner had appointed a single trustee. In the facts and circumstances, the said action of the Deputy Commissioner, Endowments, Guntur District, cannot be faulted, more particularly in the light of the fact that the petitioner is not a member of the family of Seetaravamma, the founder of the temple. As per Section 17 (2) of the Act, every trustee appointed under Section 15 of the Act shall hold office for a term of two years from the date of taking oath of office and secrecy. Since the period of two years has elapsed from the date of impugned proceedings, the single Trustee appointed by virtue of the impugned proceedings is merely continuing to manage the administration of the temple and he is being continued as such in view of the pendency of this writ petition.

13. On the above analysis, this Court finds that the petitioner failed to plead and establish any grounds, much less valid grounds, for declaring the proceedings in Rc.No.A8/2970/2012, dated 07.06.2012, appointing a

single trustee to the 2nd respondent temple as bad, illegal and arbitrary and opposed to the provisions of the Act.

14. Viewed thus, this Court finds that there is no merit in the writ petition and the writ petition is liable to be dismissed being devoid of merit.

15. In the result, the writ petition is dismissed.

Nevertheless, as the Inspector concerned noted that the management of the temple was handed over to Hampi Peetham, but the said aspect was not examined by the officials of the Endowments Department for the reason that no records were produced in that regard at that time, it is made clear that the said aspect may also be examined as per procedure and then appropriate action may be taken, if necessary, for appointment of the Trust Board for the subject Temple, in accordance with the procedure established by law.

There shall be no order as to costs.

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

13th February, 2017
Bvv

M.Seetharama Murthi, J