

HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Miscellaneous Appeal No.335 of 2017

JUDGMENT:

This Civil Miscellaneous Appeal, under Section 84 (2) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act No.30 of 1987), by the unsuccessful respondents is directed against the order and decree, dated 11.12.2012, passed by the learned Chairman, A.P. Endowments Tribunal, Hyderabad, in O.A.No.911 of 2011.

2. At the stage of admission, I have heard the submissions of the learned counsel for petitioners/respondents in the aforesaid OA and of the learned Government Pleader for Endowments, appearing for respondent No.1, and of Sri D.Sudershan Reddy, learned Standing Counsel appearing for respondent No.2-Temple. I have perused the material available on record.

3. Learned counsel for the petitioners would bring to the notice of this Court that the order impugned is an *ex parte* order and further submits as follows:

“The petitioners have got voluminous documentary evidence, evidencing their long possession and enjoyment over the subject property. Even according to the admitted case of the 2nd respondent-Temple, the petitioners are in possession of the subject property. In the circumstances stated in the affidavit, in detail, they remained *ex parte*. They are prepared to file before the Tribunal, appropriate applications, which the law permits, to set aside the said *ex parte* order. Hence, an opportunity may be given to them to contest the OA on merits by granting them a reasonable time and protecting their interest until such time.”

4. Learned Government Pleader and the learned Standing Counsel appearing for the respondents, while supporting the orders of the

Tribunal, forcibly contended that the petitioners ought to have approached the Tribunal as per the provision of Rule 11(3) of the A.P. Charitable and Hindu Religious Institutions and Endowments Tribunal Rules, 2010, seeking to set aside the *ex parte* order and decree, which are impugned in this appeal, instead of approaching this Court directly and, therefore, the appeal is not maintainable and liable for dismissal.

5. I have given detailed and earnest consideration to the facts & circumstances and I have perused Rule 11(3) of the Tribunal Rules.

6. Having regard to the facts and submissions and the legal position obtaining, this Court is satisfied that this appeal can be disposed of at the stage of admission with appropriate directions.

7. Accordingly, the Civil Miscellaneous Appeal is disposed of reserving liberty to the petitioners to approach the Tribunal and file necessary applications seeking appropriate reliefs, including the relief to set aside the *ex parte* decree and order, dated 11.12.2012, in O.A.No.911 of 2011, within three weeks from the date of receipt of a copy of this order. It is needless to state that on the petitioners filing any such application/s, the Tribunal shall give an opportunity to the 2nd respondent-Temple as well as the 1st respondent to file counters, if any, and also an opportunity of hearing and shall decide the same on merits and in strict accordance with the procedure established by law. Till the petitioners file such application/s, as directed in this order, the order impugned shall remain stayed.

8. It is apt to mention that the Tribunal is at liberty to grant any orders of stay or suspension, if sought for by the petitioners, during the pendency of the applications now directed to be filed within three

weeks. It is made clear that on failure of the petitioners to file applications, as directed in this order, the order impugned shall be enforced in accordance with the procedure established by law.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

M. SEETHARAMA MURTI, J

16.08.2017

Note:- Issue CC by 17-08-2017

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