

HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.39247 of 2017

ORDER.

This Writ Petition is filed seeking verbatim the following relief:

“.... to issue a writ order or direction more particularly, one in the nature of Writ of Mandamus, declaring the action of the respondents in proposing to evict the petitioners as per the notice in the Eenadu Daily Telugu news papers of local edition dated: 06.09.2017 indicating that all the encroachers should vacate the land on or before 12.09.2017 admeasuring Ac.8.55 cts in Sy.No.76 of Vatambedu Village, Naidupet Mandal, SPSR Nellore District under the guise of the orders dated: 09.09.2010 made in OA.No.1369/2010(Old OA.No.35/2009) on the file of the Hon'ble A.P. Endowments Tribunal as bad, illegal, arbitrary, improper, unjust, violative of principles of natural justice and violative of Sections-83, 84 and 85 of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 and Articles-14, 19 and 21 of Constitution of India and consequently, to set-aside the same and direct the respondents not to evict the petitioners without following due process of law.”

I have heard learned counsel for the petitioners, learned Government Pleader for Endowments (Andhra Pradesh) appearing for respondents Nos.1 to 4; and, the learned Standing Counsel appearing for respondent No.5 and perused the material record.

The submissions of the petitioners are as under:

They are in occupation of the land covered by O.A.No.35 of 2009 on the file of the District Court, Guntur, (O.A.No.1369 of 2010 on the file of the Andhra Pradesh Endowments Tribunal, Hyderabad). The order impugned in this Writ Petition was passed by the Tribunal without giving an opportunity to some of the petitioners herein, who are arraigned as party respondents in the said OA, to contest the said OA. Further, some of the petitioners herein are not even arraigned as party respondents in the said OA even though they are necessary and proper parties to the said OA. However, the impugned order was passed against such of the petitioners herein even without impleading them as party respondents. All the petitioners along with their families are in occupation of the land covered by the said OA. Therefore, the impugned order is liable to be set aside.

A perusal of the impugned order passed by the Tribunal would show that the respondents remained *ex parte* and did not contest the OA. However, the submission of the learned counsel for the petitioners is that some of the writ petitioners, who are parties to the said OA, are not at all served with notices before the impugned order was passed. He would further submit that all the necessary parties are not added as respondents and that some of the petitioners herein also are not arraigned as party respondents in the said OA, though the said OA was filed seeking the eviction of several persons in the occupation of the property covered by the OA.

Learned Standing Counsel appearing for the 5th respondent temple would submit that the impugned order is justifiable under facts and circumstances of the case and that in any view of the matter, if the petitioners are aggrieved, they must pursue the efficacious alternative remedy provided under the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (Act 30 of 1987) and that they should, if they so desire and if they are so advised, avail the said alternative remedy by approaching the Tribunal for setting aside the *ex parte* orders by stating the same contentions which are now being stated before this Court and that, therefore, the Writ Petition is not maintainable.

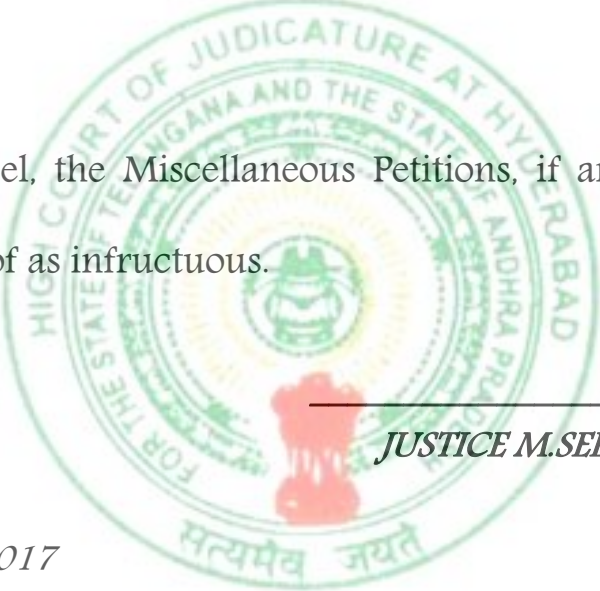
At the hearing, learned counsel for the petitioners would submit that if the petitioners are permitted to approach the Tribunal and avail the remedy available under law and their interests are protected for a limited period till such remedy is availed by them, the ends of justice would be met. He requested to dispose of this writ petition accordingly.

Recording the above submissions of the learned counsel, the Writ Petition is disposed of reserving liberty to the petitioners to approach the Endowments Tribunal and file appropriate application/s, including interlocutory applications, if any, within four weeks from the date of receipt of a copy of this order. On the petitioners filing such application/s, it is needless to state that the Tribunal shall give an

opportunity of being heard to the petitioners in the said OA and then dispose of the said application/s on their merit strictly in accordance with the procedure established by law. Nonetheless, the interlocutory applications filed by the petitioners, if any, seeking interim orders shall be considered and disposed of by the Tribunal on their merit within a period of two months from the date of filing of the said applications. Until such time, no coercive action shall be taken against the present petitioners.

No costs.

As a sequel, the Miscellaneous Petitions, if any, pending shall stand disposed of as infructuous.



JUSTICE M. SEETHARAMA MURTI

21st November 2017

DR

