

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.37375 of 2017

ORDER:

This writ petition is filed seeking a writ of *mandamus* declaring the order, dated 28.08.2017, passed by the third respondent, Andhra Pradesh Endowments Tribunal in O.A.No.2743 of 2010 (Old O.A. No.100 of 2010), as one without jurisdiction and that it was passed without issuance of any notice to the parties after the change of the Tribunal and transfer of records from the erstwhile State Endowment Tribunal to the newly constituted AP Endowment Tribunal. The writ petitioner made a request to set aside the final order, which is impugned in the writ petition.

I have heard the submissions of the learned counsel for the petitioner and the learned Government Pleader appearing for respondents 1 and 4. I have perused material record.

The main grievance of the petitioner is this: The respondents 1 and 2 herein filed an application under Section 83 of the Endowments Act before the Deputy Commissioner, Endowments, Kakinada in O.A.No.100 of 2010. Subsequently, the same was transferred to A.P. Endowments Tribunal, Hyderabad. After bifurcation of the existing State of Andhra Pradesh into two States, a new Tribunal was constituted for the State of Andhra Pradesh; vide G.O.Ms.No.418, dated 09.11.2015, as the Tribunal functioning at Hyderabad was allotted to Telangana State. The Government has not issued any notification or ordinance transferring the pending cases from erstwhile Endowment Tribunal to the newly constituted A.P Endowment Tribunal. Though there

is no official transfer of files from the erstwhile Endowment Tribunal to the newly constituted Tribunal, the 3rd respondent took up the case and renumbered the O.A.No.100 of 2010 as O.A.No.2743 of 2010 and passed the final order of eviction, on 28.08.2017, without issuing any notice of transfer to the new Endowments Tribunal. The order impugned was passed by the Chairman, on 28.08.2017, though he retired from service on 31.7.2017. On this ground alone, the order impugned is liable to be set aside. In identical circumstances, this Court, by order, dated 20.7.2017, passed in W.P.No.21984 of 2017 remitted the matter to the Tribunal for fresh consideration and disposal, after issuing notice to the petitioner.'

Learned counsel for the petitioner while reiterating the pleaded case of the petitioner would submit that the Chairman of the Tribunal passed the impugned order after his retirement from service and that for that reason also, the impugned order is unsustainable.

Learned Government Pleader would submit that in cases of identical nature, writ petitions are disposed of by remitting the matters to the Tribunal after setting aside the impugned orders.

Having regard to the submissions, the writ petition is allowed and the impugned order dated 28.08.2017 in O.A.No.2743 of 2010 passed by the third respondent – Tribunal is set aside and the said O.A. is remitted to the third respondent for fresh consideration and disposal on its merit; and in strict accordance with procedure established by law, however, after issuing notice to the petitioner.

Office is directed to enclose to this order a copy of the order of this Court, dated 20.7.2017, passed in W.P.No.21984 of 2017.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M. SEETHARAMA MURTI, J

Date: 08.11.2017
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