

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.41626 OF 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief:

“...to issue a Writ, order or direction, more particularly a Writ of Mandamus, declaring the action of the respondent authorities, particularly respondent No.3 in issuing the impugned Notice/Order directing the petitioner to handover possession of the land to an extent of Acs.40.00, situated at Thondapadu and Jakkala Cheruvu Villages, Gooti Mandal, Anantapur District, as illegal, arbitrary, biased, unconstitutional and violative of the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 and consequently, set aside the said Notice/Order 05-06-2017 issued by the 3rd respondent and pass such further order or orders in the interest of justice.”

2. I have heard the submissions of the learned counsel for petitioner, learned Government Pleader for Endowments appearing for respondent Nos.1 and 2, and Sri A. Srikanth Reddy, learned Standing Counsel appearing for respondent No.3 – Temple. I have perused the material record.

3. A perusal of the notice, which is impugned in this Writ Petition, reflects that the petitioner and his father are separately cultivating Ac.40-00 of land; that the father of the petitioner died on 05.06.2017; that in that view of the matter, the petitioner is required to handover Ac.40-00 of land, which his deceased father cultivated, within ten days from the date of receipt of the said notice or else action will be initiated for taking possession and

conducting auction of the leasehold rights in respect of the said Ac.40-00 of land cultivated by the deceased father of the petitioner.

4. Learned counsel for the petitioner would submit that the impugned notice, which is in the form of an order and issued without giving a show-cause notice or an opportunity of being heard, is unsustainable under the facts and in law.

5. Learned Standing Counsel appearing for respondent No.3 – Temple submits that a notice has already been issued and the petitioner is required to submit his explanation to the said notice and that on the petitioner submitting his explanation, appropriate decision will be taken in the matter in accordance with the procedure established by law and that the decision taken would be communicated to the petitioner.

6. Having regard to the facts and submissions and the contents of the notice impugned, which are referred to supra, this Court finds that the notice is unsustainable and the action contemplated under the notice impugned cannot be permitted, as the petitioner is not given a prior opportunity of being heard.

7. In that view of the matter, the impugned notice is set aside and the Writ Petition is disposed of accordingly reserving liberty to respondent No.3 – Temple to issue a fresh show-cause notice to the petitioner within two (2) weeks or within such time as respondent No.3 – Temple deems appropriate. It is made clear that after issuance of the show-cause notice, respondent No.3 – Temple shall give an opportunity to the petitioner to submit his representation

and then further proceed in the matter in strict accordance with the procedure established by law.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

There shall be no order as to costs.

M.SEETHARAMA MURTI, J

December 13, 2017
MD

