

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.25043 OF 2008

ORDER :

This Writ Petition is filed seeking the following relief:

“to issue a writ, order, or directions more particularly one in the nature of a writ of Mandamus declaring that the non appointment of the Writ petitioner as a founder trustee of “Sri Sheshagiri Venkateswara Swamy Temple of Guravaigudem village is highly unjust, improper and contrary to law that the order passed by the 1st Respondent in R.P.No.3/2008 on 2.05.2008 confirming the order dated 7.08.2004 passed by the 2nd respondent in D.Dis.No.B5/2244/2004 is unjust, improper and contrary to law.”

2. It is the case of the petitioner that he is a resident of Jangareddygudem Village, West Godavari District. He constructed Sri Seshagiri Venkateswara Swamy Temple with his own funds. He purchased idols from Cherukula Srinivasa Chetty of Tirupati and getting Kalyanams and other religious ceremonies in the temple at his own cost. The temple is situated in an extent of Ac.3.50 cents in R.S.No.272/2001. Beside that temple, Sri Maddi Anjaneyaswamy Temple is situated. The above said property is in possession of the temple and the same is recorded in the Record of Rights of the village. Since the date of construction of temple, the petitioner is performing daily poojas and other religious rituals. While so, he is stated, the petitioner applied to the Endowments Department to recognize him as ‘hereditary trustee’ of the temple, as per Section 17 (1) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, ‘the

Act'). The Assistant Commissioner of Endowments, Kakinada, the 3rd respondent herein, issued the notice on 28.04.2001 calling him for enquiry on 14.05.2001. Though the petitioner attended with relevant records in proof of his claim, no enquiry was conducted on that day. Thereafter, notices were issued, but no enquiry was conducted. After long lapse of time, the Deputy Commissioner, the 2nd respondent herein, issued the notice on 17.04.2003 calling upon to appear before him on 25.04.2003 for enquiry. The petitioner attended on that day, but no enquiry was conducted. Aggrieved by the action of the respondents in not conducting the enquiry, the petitioner filed W.P.No.13315 of 2006. When the said writ petition came up for hearing, the learned Assistant Government Pleader for Endowments appearing for the respondents, submitted that the Deputy Commissioner, Endowments, Kakinada, had already passed final order on 07.08.2004 with respect to the subject matter and a copy of the same was served on the counsel for the petitioner. Based on the said submission, this Court disposed of the said Writ Petition, leaving it open to the petitioner to agitate his right by way of an appeal under Section 88 of the Act. Thereafter, the petitioner filed the appeal and the same was dismissed by the order, dated 07.03.2007. Aggrieved by the same, he filed C.R.P.No.616 of 2008 before this Court. At the time of hearing the revision, on examination of provisions of law, this Court expressed a view that the impugned order, dated 07.08.2004, is not an appealable order and refused to appoint him as founder member of the Trust Board under Section 17 (1) of the Act and accordingly, dismissed the civil

revision petition giving liberty to file a Revision Petition. As per the direction of this Court, the petitioner filed Revision Petition No.3 of 2005 before the Commissioner against the impugned order, dated 07.08.2004. The said revision petition was dismissed by the order, dated 02.05.2008. Challenging the same, the present Writ Petition is filed.

3. A counter-affidavit is filed by the Additional Commissioner of Endowments, Hyderabad, wherein it is stated that Sri Seshagiri Venkateswara Swamy Temple is a sub-temple of Maddi Anjaneya Swamy temple and both temples are situated in one compound over an extent of Ac.3.50 cents in R.S.No.272/2001. Sri Seshagiri Venkateswara Swamy Temple was constructed with the funds and monies granted and sanctioned by the Endowments Department from the Common Good Fund (CGF) vide proceedings, dated 22.05.1999 for a sum of Rs.5,59,800/-; that the name of the petitioner is not found on the foundation stone. The Deputy Commissioner, after conducting necessary enquiry as required under law, had rightly rejected the claim of the petitioner by order, dated 07.08.2004, hence, prayed to dismiss the writ petition.

4. Heard learned counsel for the petitioner and learned Government Pleader for Endowments for the respondents.

5. As can be seen from the impugned proceedings, the competent authority has recorded a categorical finding to the effect that the petitioner is associated with various functions of the temple. The question is whether the petitioner can be recognized

as founder trustee of the temple. The specific assertion of the respondents is that the temple came to be established as sub-temple of Sri Anjaneya Swamy temple with the amounts donated by the third parties and funds provided by TTD. At any rate, there is no material placed before this Court to come to a contra conclusion. It is also the finding of the Commissioner that Sri Anjaneya Swamy Temple is a temple registered in the year 1987 and the temple initially was constructed in Government Poramboke land. While recording a finding that the petitioner was not involved in any manner with respect to establishment of temple, the statements of Archakas of Sri Anjaneya Swamy Temple were taken into consideration. In those circumstances, as the petitioner failed to satisfy the fact-finding authority and failed to establish that he constructed the temple, the claim of the petitioner to recognize him as the founder trustee of the temple, cannot be accepted. Therefore, there is no merit in the writ petition.

6. Accordingly, the Writ Petition is dismissed. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

CHALLA KODANDA RAM, J

JUNE 20, 2018

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Date:20.06.2018

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