THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.8732 OF 2006

ORDER:

This writ petition is filed challenging the order of the Joint Collector, Nalgonda District, second respondent herein, in No.F2/JC/ROR/5/98, dated 23.01.2006.

2. The case of the petitioners is as follows:

(i) On 25th Safar 1295 Hijri, a Munthakhab No.2380 was issued in favour of Komandur Ramaiah, the Poojari of Sri Venkateshwara Swamy Temple, Panagal Village, appointed him as the Inamdar with a cash grant and grant of inam of 51 begas and 10 bams of land which were under the temporary attachment of the Government. After the death of said Inamdar, his son K.Srinivasa Chari was granted the inam in respect of lands admeasuring Ac.35-48 guntas i.e., Ac.17-13 guntas in Sy.No.502, Ac.5-09 guntas in Sy.No.811, Ac.6-20 guntas in Sy.No.811/1 and Ac.6-03 guntas in Sy.No.812/2 of Panagal Village, Nalgonda Mandal and District. The wet lands were converted into khalsa on 3rd Ardi behest 1344 Fasli and the government raised attachment in respect of the said lands. In the revenue settlement conducted in 1332 fasli, the Inam dry land admeasuring Ac.5-06 guntas in Sy.No.811, as per the first settlement, was found on measurement to have an excess area of Ac.7-39 guntas. The settlement authorities gave a separate revision number for the excess land admeasuring Ac.7-39 guntas as Sy.No.1297 and made it a khalsa land. The Collector, Nalgonda, vide his judgment No.46/1341 Fasli in File No.8/58 held that the Inamdar – K.Srinivasa Chari was the pattadar of said excess land along with wet land. The decision of the Nazim Atyit and the letter of Tahsildar to the Patwari Panagal dated 22nd Amerdad 1341 Fasli also show that the inam lands mentioned therein were converted into khalsa and patta effected in the name of K.Srinivasa Chari in 1341 Fasli as per the judgment of High Court of Hyderabad in Case No.448 of 1343 Fasli, dated 21st Infandar 1343 Fasli. The Tahsildar, Nalgonda, in his letter in L.Dis.No.2590/64/D1, dated 19.06.1964, held that patta was granted in favour of K.Srinivasa Chari as per Masal Tahkrur No.8/58/36F and as K.Srinivasa Chari expired on 08.09.1962, the mutation may be effected in favour of his legal heirs. The forefathers of petitioners Nos.1 to 4 herein were originally tenants in respect of land admeasuring Ac.7-29 guntas in Sy.No.1297 (old Sy.No.811/1). The permanent record of the Protected Tenant shows that K.Srinivasa Chari was the pattedar of the land. The inam lands were in Sy.Nos.157, 1298, 1302 and 1303 of Pangal Village. After the death of the K.Srinivasa Chari, his son was granted succession in respect of inam lands under Rule 8 of the Andhra Pradesh (Telangana Area) Atiyat Enquiries Rules and the same was published in the District Gazette dated 09.09.1963.

(ii) Thereafter, the Tahsildar, Nalgonda, in his proceedings No.LDIS No.2590/64/D1, dated 19.06.1964, ordered for implementation of Fouthi Mutation in favour of K.Ranga Chari, the third respondent herein. Subsequently, Maternal grandfather of the petitioner No.1, grandfather of the petitioner No.2 and father of petitioner No.3 purchased an extent of land admeasuring Ac.7-38 guntas in Sy.No.1297 from respondent No.3 by way of a simple sale deed dated 01.05.1966. The grandfather of petitioner Nos.5 to 8, father-in-law of petitioner Nos.9 and 10 had purchased an extent of land admeasuring Ac.2-16 guntas in Sy.Nos.129, 130 and 131 under a registered sale deed dated 27.06.1979 vide document No.907 of 1979 from respondent No.3 and his brother. The father of petitioner Nos.11 to 14 and the husband of petitioner No.15 had purchased an extent of land admeasuring Ac.2-20 guntas in Sy.Nos.999 and 1000 of Panagal Village under a registered sale deed dated 18.06.1996 vide document No.3073 of 1996 from one Gurram Satyanarayana, who acquired the said land from respondent No.3 several years ago. Petitioner No.18 purchased an extent of wet land admeasuring Ac.0-20 guntas in Sy.No.1000 from petitioner Nos.16 and 17, who acquired the said land from respondent No.3 several years ago.

(iii) Respondent No.1, Sri Venkateshwara Swamy Temple, Pangal Village, filed a petition before respondent No.2 stating that the lands admeasuring Ac.18-29 guntas in Sy.Nos.129, 130, 131, 999, 1000, 1297 and 1298 of Panagal Village are its inam lands and the entries made in the revenue records in respect of the said lands from the year 1965-66 are incorrect. Respondent No.2, after hearing all the stakeholders, has passed the impugned order dated 23.01.2006, canceling fourthi mutation sanctioned in favour of respondent No.3 herein in respect of total lands admeasuring Ac.18-29 guntas in Sy.No.129, 130, 131, 999, 1000, 1297 and

1298 of Panagal Village. Vide impugned order, respondent No.2 directed the Mandal Revenue Officer, Nalgonda to initiate action to restore the entries in revenue records in the name of deity and also directed the Revenue Divisional Officer, Nalgonda to initiate action to issue Occupancy Rights Certificates for the inam lands in favour of deity. The petitioners filed the present writ petition challenging the said order to the extent of their lands admeasuring Ac.0-13 guntas in Sy.No.129, Ac.1-14 guntas in Sy.No.130, Ac.0-29 guntas in Sy.No.131, Ac.2-34 guntas in Sy.No.999, Ac.2-06 guntas in Sy.No.1000 and Ac.7-38 guntas in Sy.No.1297, totally admeasuring Ac.13-14 guntas.

3. Heard.

4. Learned counsel for the petitioners submitted that as per the judgment of High Court of Hyderabad in Case No.448 of 1343 Fasli, dated 21st Infandar 1343 Fasli, the lands of the petitioners were converted into khalsa and patta effected in the name of father of respondent No.3 in 1341 Fasli and the decision of the Nazim Atyit and the letter of Tahsildar to the Patwari Panagal dated 22nd Amerdad 1341 Fasli show the same. The Tahsildar, Nalgonda, in his letter in L.Dis.No.2590/64/D1, dated 19.06.1964, held that patta was granted in favour of father of respondent No.3 as per Masal Tahkrur No.8/58/36F and as father of respondent NO.3 expired on 08.09.1962, the mutation may be effected in favour of his legal heirs. It is also contended that when the rights are settled long back, no action can be initiated by the revenue authorities by

exercising the power in a revision under Section 166-B of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli (for short, Act 1317 Fasli) against the lands of the petitioners and cannot dispossess them from their lands after an inordinate delay of decades.

5. Learned counsel for the petitioners relied on the decisions of this Court in **Smt.P.Mangamma v. The Women's Cooperative Housing Society Ltd.**[1] and **Habeeb Yahiya v. Govt. of A.P.**[2] and contended that inordinate delay in exercising the revision power is unsustainable.

6. Learned Government Pleader, appearing on behalf of respondent Nos.1 and 2, contended that heriditory rights to the Temple have been abolished and the service inam lands belong to the diety and the Poojaris are not entitled for any rights or title over the lands, as they are only salaried persons and even the Occupancy Right Certificates have to be issued in the name of the deity, as the land belongs to the Temple. He contended that the protection under the Inams Abolition Act is not applicable to the Andhra Pradesh Charitable and Hindu Religious and Endowments Act, 1987 (for short, Endowments Act). The provisions of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 are not applicable to Inam lands held by religious or charitable institutions. Under Section 75 of the Endowments Act, any lease, gift, sale exchange or mortgage of an inam land granted

[1] 1995(3) ALT 330
[2] 2003 (6) ALT 770

for the support of the maintenance of charitable or religious institution or endowments or for the performance of religious or public charity or service shall be null and void without prior sanction of the Government. Under Section 77 of the Endowments Act, the Revenue Divisional Officer may either *suo motu,* or, on the application by the Trustee of a charitable or religious institution or endowment, or, any other person authorized by the Commissioner can resume the whole or any portion of any inam land referred in Section 75 of the Endowments Act. He further contended that in the present case, initially Komanduru Ramaiah, China Ranga Chary and Narasimha Chary were the Archakas of the first respondent – Temple. Thereafter, their successors became the Archakas of the Temple and they were permitted to take possession of the lands admeasuring Ac.18-29 guntas in Sy.Nos.129, 130, 131, 999, 1000 and 1297 of Panagal Village for rendering service to the Temple by enjoying the fruits of the said lands and to take care of the Temple rituals. Beyond the enjoyment of the lands, the Archakas were not given alienable rights. The petitioners have purchased the inam lands belonging to the first respondent without following the procedure under Section 80 of the Endowments Act and hence their sale deeds are null and void.

7. Learned Government Pleader relied on a decision of this Court in **Pidathala Shyam Rao v. State**[3], wherein this Court upheld the action of the Joint Collector under Section 166-B of the Andhra Pradesh (Telangana Area) Land Revenue Act in passing the orders

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[3] 1984 (2) ALT 386

in revision even in the case of inordinate delay fixing no limitation of time, as the statute has not prescribed any time limit and the interest of the innocent should be protected. He also relied on a decision of this Court in **Secretary to Govt., Revenue (Endowments) Dept. v. S.S.A.C.H.S. Ltd.[4],** wherein this Court held that the sale of lands belonging to the charitable institution or endowment without the prior sanction of the Commissioner shall be null and void.

8. The Supreme Court, in **Chenchu Rami Reddy v. Govt. of A.P.[5],** considered Section 80 of the Endowment Act and the relevant Rules and held that property of such institutions or endowments must be jealously protected. It must be protected, for a large segment of the community has beneficial interest in it. The authorities exercising the powers under the Act must not only be most alert and vigilant in such matters but also show awareness of the ways of the present day world as also the ugly realities of the world of today. They cannot afford to take things at their face value or make less than the closest-and-best-attention approach to guard against all pitfalls. The approving authority must be aware that in such matters the trustees, or persons authorised to sell by private negotiations, can, in a given case, enter into a secret or invisible underhand deal or understanding with the purchasers at the cost of the concerned institution. Those who are willing to purchase by private negotiations can also bid at a public auction. Therefore, whenever if it is proposed to sell the property belonging to a

[4] 2003 (6) ALD 225
[5] 1986 AIR 1158

religious institution it shall have to be sold by tender-cum-public auction. One exception to this rule is contained in the first proviso to Section 80(1)(b) of the Endowment Act. As per this, it is competent for the Government to permit the sale of immovable property otherwise than by public auction in the interest of the institution by recording reasons therefor.

9. The Temple lands are not alienable to the private parties without having prior sanction from the concerned Departments. The impugned order, though initiated with an inordinate delay, when the time does not specified in the statute, in the interest of innocent party, the technical objection of inordinate delay can be overlooked to meet the ends of justice. Hence, the order of the second respondent is upheld. Insofar as the private lands belonging to the individuals are concerned, it is open to them to take appropriate legal steps.

10. The writ petition is, accordingly, disposed of. No costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 02-02-2018
TJMR