

THE HON'BLE SRI JUSTICE M.S. RAMACHANRA RAO

WRIT PETITION No.5623 of 2018

ORDER:

Heard the learned counsel for the petitioner, learned Government Pleader for Endowments appearing for respondent Nos.1 to 3, learned Government Pleader for Home appearing for respondent Nos.4 and 5 and Sri L. Ravichander, learned Senior Counsel for Sri N.S. Arjun Kumar, learned counsel for respondent Nos.6 and 7.

2. This Writ Petition had been filed by petitioner challenging the inaction of respondent Nos.1 to 3 in evicting respondent Nos.6 and 7 pursuant to order of the 2nd respondent passed in Memo No.29043/Endts.II(1/2004-2 dt.23-09-2004 whereby the 3rd respondent had confirmed the order dt.03-08-2004 in R.P.No.7 of 2004 of the Regional Joint Commissioner, M.Z.III, Endowments Department, Hyderabad.

3. By the said order, the Regional Joint Commissioner had confirmed the eviction order passed by the Assistant Commissioner of Endowments, Hyderabad directing the Station House Officer, P.S. Shah-Inayat Gunj, Hyderabad in proceedings Rc.No.E/2967/03 dt.27-12-2003.

4. The petitioner is Sri Khemdas Mutt and it is represented by the deponent of the affidavit filed in support of the Writ petition who claims to be it's Mahant and recognized as such by the Dharmika

Parishad on 30-09-2010, but this is disputed by respondent Nos.6 and 7.

5. The subject matter of the dispute is an extent of Ac.3.20 gts, which is vacant land situated at Chudi Bazar, Begum Bazar, Hyderabad.

6. The Dy.Commissioner of Endowments in O.A.No.60 of 1978 passed order dt.22-12-1981 under Section 75 of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1966 (for short "the Act") against respondent Nos.6 and 7 and held that they were encroachers.

7. This was challenged by respondent Nos.6 and 7 in W.P.No.323 of 2004, but the said Writ Petition was disposed of directing them to avail remedy under Section 92 of the Act. They then preferred a Revision against the said order before the Regional Director of Endowments, Hyderabad, who dismissed it on 03-08-2004.

8. Though they preferred a further revision before the State Government, it rejected it on 23-09-2004 and upheld the order of eviction.

9. Petitioner contended that in spite of the order of eviction having been confirmed by 3rd respondent as long back on 23-09-2004, respondent Nos.6 and 7 have continued to squat on the property and respondent Nos.1 to 5 have failed to evict them.

10. Counter-affidavit had been filed by respondent Nos.6 and 7 opposing grant of any relief to the petitioner.

11. However, during the course of hearing of the Writ Petition, an affidavit/undertaking had been filed by respondent Nos.6 and 7 vide USSR No.22690 of 2018 on 13-04-2018 undertaking to vacate the subject land on or before 13-01-2019.

12. Subsequently another affidavit/undertaking has been filed on 17-04-2018 by respondent Nos.6 and 7 in USSR No.23610 of 2018 undertaking to deposit monthly amount of Rs.10,000/- to the Bank account No.52632150006100 of petitioner-Mutt in Oriental Bank of Commerce, Mojam Jahi Market Branch provided by the learned counsel for petitioner upto 13-01-2019.

13. Having regard to the above affidavits/undertakings filed by respondent Nos.6 and 7, the Writ Petition is disposed of directing:

(i) respondent Nos.6 and 7 to hand over possession of the subject property to the petitioner-Mutt on or before 13-01-2019 and deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) per month to the petitioner in A/c.No.52632150006100 in Oriental Bank of Commerce, M.J. Market Branch, Hyderabad on or before 7th day of every succeeding starting from 07-05-2018 without fail.

(ii) In default of payment of amount as directed above, respondent Nos.6 and 7 shall be liable to be evicted forthwith by respondent Nos.1 to 5 without reference to this Court.

(iii) Also, if the affidavits/undertakings filed by respondent Nos.6 and 7 are violated by not vacating the subject property by 13-01-2019, respondent Nos.1 to 5 are at liberty to evict respondent Nos.6 and 7 without further reference to the Court.

(iv) It is made clear that under no circumstances, time granted to vacate the premises will be extended. No costs.

14. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 30-04-2018
Vsv

