

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No. 685 of 2018

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

While elaborate submissions are made by Sri J. Sudheer, learned counsel for the appellant, to contend that the order of the learned Single Judge, in I.A. No. 1 of 2018 in W.P. No. 7731 of 2018 dated 19.4.2018, necessitates being set aside, Sri Sarang Afzulpurkar, learned counsel for the respondent-writ petitioner, would draw our attention to the order of the learned Single Judge in support of his submission that, since the order under appeal was a consent order, no appeal would lie thereagainst under Clause 15 of the Letters Patent.

The order under appeal records that the counsel for the petitioner (1st respondent herein) as well as the counsel for the 6th respondent (appellant herein) accepted that the 1st respondent-writ petitioner should do religious rites at the Ram Chandra Devasthanam Sangham Mutt during the morning hours upto 12.00 noon, and the 6th respondent would do religious rites after 12.00 noon every day till the issue as to which of them is entitled to be an Uttaradhikari or successor to the earlier Mathadipathi under Section 54 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 is decided by the competent authority. The learned Single Judge also recorded the assurance of the learned Government Pleader for Endowments that the competent authority under Section 54 of the Act, would decide the issue within one month strictly in accordance with law.

It is evident, from a bare reading of the order under appeal, that the said order was passed based on the consent of both the counsel for the petitioner and the 6th respondent. While submissions are put forth that the consent was in fact not given, and that no such consent could have been given, it would suffice to take note of the law declared by the Supreme Court in this regard. In **State of Maharashtra vs. Ramdas Shrinivas Nayak**¹ the Supreme Court observed:

“..... When we drew the attention of the learned Attorney General to the concession made before the High Court, **Shri A.K. Sen, who appeared for the State of Maharashtra before the High Court and led the arguments for the respondents there and who appeared for Shri Antulay before us intervened and protested that he never made any such concession and invited us to peruse the written submission made by him in the High Court. We are afraid that we cannot launch into an inquiry as to what transpired in the High Court. It is simply not done. Public Policy bars us. Judicial decorum restrains us. Matters of judicial record are unquestionable. They are not open to doubt. Judges cannot be dragged into the arena. “Judgments cannot be treated as mere counters in the game of litigation”. (Per Lord Atkinson in Somasundaran v. Subramanian : AIR 1926 PC 136). We are bound to accept the statement of the Judges recorded in their judgment, as to what transpired in court. We cannot allow the statement of the Judges to be contradicted by statements at the Bar or by affidavit and other evidence. If the Judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject. The principle is well-settled that statement of fact as to what transpired at the hearing, recorded in the judgments of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. ” (emphasis supplied)**

If, as is now contended before us, the counsel for the appellant-6th respondent did not give his consent, the remedy open to them is to file an application before the learned Single Judge seeking review of the

¹ AIR 1982 SC 1249

order, and to have the record corrected accordingly. As the order of the learned Single Judge specifically records the consent of both the counsel, we see no reason to interfere with such an order in the exercise of our jurisdiction, under Clause 15 of the Letters Patent, as such a consent order cannot be said to suffer from a patent illegality.

Sri J. Sudheer, learned counsel for the appellant, would request this Court to at least direct the competent authority to pass orders as directed by the learned Single Judge. Learned Government Pleader for Endowments would submit that, since the period stipulated in the order under appeal has already expired, the competent authority would pass orders, in accordance with law, within two weeks from today.

Recording the submission of the learned Government Pleader, and in view of her assurance that the competent authority would pass an order within two weeks from today, the Writ Appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand dismissed. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

4th June, 2018

pnb

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI



Writ Appeal No.685 of 2018

Date: 4.6.2018

pnb