

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.M.A.No.475 of 2018

JUDGMENT:

This Civil Miscellaneous Appeal is filed under Section 84(2) of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 1987, assailing the order dated 20.03.2018 passed in O.A.No.119 of 2011 on the file of the A.P.Endowments Tribunal, Amaravathi at Pedakakani.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the respondent filed O.A.No.119 of 2011 on the file of the A.P. Endowments Tribunal, Amaravathi at Pedakakani, for eviction of the petitioner from the petition schedule property. The Tribunal passed the orders on 20.03.2018 directing the petitioner to vacate the premises. Hence, the appeal.

4. A perusal of the record reveals that for one reason or other, the petitioner, though filed the affidavit in lieu of chief examination, did not choose to appear before the Endowments Tribunal for cross-examination. A perusal of the record also reveals that the advocate engaged by the petitioner did not appear. The Tribunal having no other alternative passed the order basing on the material available on record.

5. It is the case of the petitioner that he purchased the property from the trustees of Pydah Chalamaiah Choultry, Kakinada. The very purpose of producing the evidence is to substantiate the respective stands taken by the parties. If no

opportunity was given to the petitioner, it may cause untold hardship to him. Even if one more opportunity is given to the petitioner, the same would not cause any prejudice to the respondent. Taking into consideration the facts and circumstances of the case, I am of the considered view that it is a fit case to remand the matter to the A.P. Endowments Tribunal, Amaravathi, for fresh disposal.

5. In the result, the Civil Miscellaneous Appeal is allowed setting aside the order dated 20.03.2018 passed in O.A.No.119 of 2011 on the file of the A.P.Endowments Tribunal, Amaravathi, at Pedakakani. The learned Chairman of A.P. Endowments Tribunal, Amaravathi, at Pedakakani, is hereby directed to dispose of O.A.No.119 of 2011 within one (1) month from the date of receipt of copy of the order by affording a reasonable opportunity to the petitioner. If the petitioner fails to cooperate for the disposal of the matter, the Chairman of the Tribunal is at liberty to proceed further in accordance with law. As a sequel, Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

2nd August 2018,
Rns

T.SUNIL CHOWDARY, J

