

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.17887 of 2008

ORDER:

This writ petition is filed to declare the impugned common order No.10 passed in OA No.920 of 2003 and batch dated 23.06.2008 of the 1st respondent-Deputy Commissioner, Endowments, Hyderabad, as without jurisdiction and illegal.

The case of the first petitioner is that his father was inducted as tenant to the open land of the 3rd respondent temple in an extent of 110 sq. yards at premises No.3-2-284, Somasundaram Street, Secunderabad, in the year 1997 through an agreement dated 31.03.1997 for three years at the rate of Rs.250/- per month for running a sugar cane business; from time to time after expiry of the said period, the tenancy was extended and he has been paying the rents regularly; eviction orders were passed, which was received by the first petitioner on 04.08.2008 without conducting any trial; the common order passed by the 1st respondent shows that in the O.A, the I.A. filed by the first petitioner is still pending; no notice was issued to the first petitioner in the main O.A. and no counter has been filed and no trial also conducted; it is mentioned in the said order as if the trial is over and the evidence also adduced on both sides; on verification, it is found that no orders have been passed on the I.A. filed under Section 83(6) and no evidence of the E.O. found; as on the date of passing of the impugned common order dated 23.06.2008, the 1st respondent has no vested jurisdiction with him to pass such orders under Section 83 of the Act 30 of 1987 and to direct the first petitioner to remove

the encroachments and deliver vacant schedule premises to the temple authorities; on the date of passing the impugned orders dated 23.06.2008, the A.P. Charitable & Hindu Religious Institutions and endowments (Amendment) Act, 33 of 2007 came into force with effect from 03.01.2008 and as per the said amended Act 33 of 2007, the 1st respondent has no jurisdiction to pass the orders in the matter relating to the encroachments under Section 83 of the Act, 1987 and hence, the order passed by the 1st respondent is without jurisdiction and the jurisdiction under Section 83 of the Act 33 of 2007 is vested with the Endowments Tribunal only.

Heard Sri D.Sudarshan Reddy, learned counsel for the petitioners, learned Assistant Government Pleader for endowments/R.1 to R.3 and Sri Ravi Kondaveeti, learned counsel for the 4th respondent.

Learned counsel for the petitioners submits that WP No.18290 of 2008 was filed challenging the very same Common Order No.10 in OA No.922 of 2003 and batch dated 23.06.2008 and the said writ petition was allowed vide order dated 02.09.2015, setting aside the impugned common order dated 23.06.2008 and the matter was remitted to the Tribunal constituted under Section 162 of the Act 30 of 1987. It was also observed by this Court that since the matter is very old and several years have lapsed, directed the Tribunal to dispose of the same on merits as expeditiously as possible. He further submits that the present writ petition is also squarely covered by the judgment in WP No.18290 of 2008 dated 02.09.2015.

In the facts and circumstances of the case, this writ petition is also disposed of in terms of the orders passed in WP No.18290 of 2008 dated 02.09.2015, setting aside the impugned order dated 23.06.2008 and the matter is remitted to the Tribunal constituted under Section 162 of the Act 30 of 1987, directing the Tribunal to dispose of the same on merits, as expeditiously as possible. No order as to costs. Pending miscellaneous petitions, if any, in this writ petition, shall stand closed.

Date: 13.11.2018
BSS

KONGARA VIJAYA LAKSHMI, J

