

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.29792 OF 2018

ORDER:

Heard learned Counsel for the petitioner, learned Government Pleader for respondents No.1 to 3 and Sri Jaganmohan Reddy, learned Counsel for R.4.

An Order, dated 02.04.2018, passed by the Telangana Endowments Tribunal, Hyderabad, in O.A.No.96 of 2017, ordering eviction of one D.Balraj Goud, S/o.Mallaiah Goud, under Section 83(1) of the Endowments Act, 1987, by declaring him as an encroacher is under challenge in the present Writ Petition.

According to the learned Counsel for the petitioner, the Order impugned in the Writ Petition is erroneous and contrary to law and is also void as the same came to be passed against a dead person. It is further submitted by the learned Counsel that the respondent in O.A.No.96 of 2017 i.e., D.Balraj Goud passed away on 11.05.1997 and in support thereof, a death certificate issued by the Greater Hyderabad Municipal Corporation, Hyderabad, in Form No.6, dated 11.08.2018 is filed along with the Writ Petition as material paper. It is further submitted by the learned Counsel that after the death of D.Balraj Goud, his legal representatives namely Smt.D.Vijayalaxmi, W/o. late D.Balaraj Goud and Mr.Satyanarayana Goud, S/o.D.Mallaiah Goud, who is the brother of D.Balraj Goud, executed a registered sale deed, on 27.01.2012 vide document No.370/2012. It is further submitted by the learned Counsel for the petitioner that without properly verifying the records, the respondents filed the said Original Application.

A reading of the Order passed by the Tribunal, which is under challenge in the present Writ Petition, clearly discloses that except D.Balraj Goud, no other respondents were shown by the applicants. In the considered opinion of this Court, the impugned Order passed by the Tribunal is *non est* and void in the eye of law as the Tribunal passed the said Order against a dead person. This Court is inclined to set aside the Order on the said solitary ground. This Court does not propose to go into the merits of the case. Accordingly, the Writ Petition is allowed, setting aside the Order, dated 02.04.2018 passed in O.A.No.96 of 2017, on the file of the Telangana Endowments Tribunal, Hyderabad, keeping it open for the respondents herein to file a fresh Original Application against the persons in occupation of the subject property.

Miscellaneous Petitions pending consideration, if any, in this Writ Petition shall stand closed. No order as to costs.

Date :23.08.2018
Smr

JUSTICE A.V.SESHA SAI