

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL No.1492 OF 2018

JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard the learned counsel appearing for the parties.

The appellants herein are the third parties to W.P.No.44497 of 2017. The 1st respondent filed W.P.No.44497 of 2017 for Mandamus declaring the action of the Executive Officer of Sri Soma Sundareswara Swamy Temple, Gaddi Bazaar, Kadapa Town, Y.S.R.Kadapa District in directing the petitioner to handover charge of archakatvam of Sri Lakshmi Satyanaryana Swamy Temple situated on the premises of 1st respondent Temple, as illegal and contrary to the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. The learned Single Judge by recording the submissions made on behalf of respondents 1 to 6 herein disposed of the writ petition by this order:

“Recording the submissions, the Writ Petition is disposed of with the following directions: ‘The petitioner shall hand over possession of the room as well as articles to the Executive Officer under proper acknowledgement. The Executive Officer before taking possession of the room and articles, may inform the petitioner, the details of the articles, if any, to be delivered possession of and also the date and time on which he would take possession of the room and the articles, under proper acknowledgement. This order shall not preclude the Executive Officer from retaining with the petitioner-Archaka, some essential articles which may be required for daily performance of the rituals in the temple”.

Hence, the appeal at the instance of third parties.

The case of appellants is that they are in possession of the room which the 1st respondent had undertaken before the learned Single Judge to deliver to the Executive Officer of Sri Soma Sundareswara Swamy Temple. The appellants are in possession and a direction, if required against a person in possession of the property, such person (s) ought to be impleaded, opportunity afforded, and then orders in accordance with law are made. In the case on hand, by referring to the order passed in the writ petition, the respondents are trying to dispossess the appellants.

The grievance of appellants appears to be tenable and also legitimate. It is axiomatic that the person in possession ought to be impleaded as a party to the proceeding, for obtaining effective and executable orders by an aggrieved party.

This Court is not looking at the submission made by the 1st respondent or the submissions made by other respondents which have been recorded by the order under appeal. To meet the ends of justice and to protect the possession claimed by the appellants, the writ appeal is ordered by this order:

The possession of appellants shall not be disturbed by referring to the order in W.P.No.17389 of 2018. Respondent Nos.2 to 6, if have reason to proceed against appellants for taking vacant possession of the subject premises, such effort could be in accordance with the Act.

The writ appeal is, accordingly, ordered. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

13th December, 2018

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