

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

WRIT APPEAL No.1429 OF 2018

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

Heard Sri M.Vidya Sagar, learned counsel for appellant, Mr.A.Sreekanth Reddy for 1st respondent and the learned Government Pleader (Endowments) for respondents 2 and 3.

2. The writ petitioner is the appellant. The appeal challenges order dated 17.09.2018 in W.P.No.45735 of 2016. The appellant, since is aggrieved by a few directions issued by the order under appeal, has filed the instant writ appeal.

3. The appellant filed W.P.No.45735 of 2016 for a writ in the nature of Mandamus declaring the action of 1st respondent in taking possession of Voruganti Ramalingaiah Chetty and Mangamma Charities (for short 'the Trust'), situated at Door No.3/533, Bazaar Street, Srikalahasti, without recourse to law, as illegal and unconstitutional.

4. The case of appellant is that through the deed of settlement dated 19.05.1959 executed by late V.Mangamma, the Trust is brought into existence. One of the aims and objectives of the deed of settlement is to provide occupation to Vysya and Brahmin pilgrims/ travellers visiting the pilgrim town Srikalahasti. The Trust in terms of the clauses in the Settlement Deed is discharging the religious duties and charitable functions as well. The Trust has

immoveable property in Madras and the income derived from this property is consecrated towards nithya dhoopa deepa naivedyam to the deity that may be installed in Krishna Mandiram in Sholinghur, Tamil Nadu. One Voruganti Nageswara is deponent of the writ affidavit and he states that his grandfather succeeded to the maintenance of the Trust and thereafter, the deponent's father, as a life trustee, managed the affairs of Trust and presently the deponent of the writ affidavit is managing the Trust in line of succession. On 22.12.2016, Supplemental Deed for the Trust Deed executed on 19.05.1959 was executed at SRO, Sikalahasti. On the very same day, it is alleged that the 1st respondent sealed the premises without authority of law and without following the procedure stipulated under the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act (for short 'the Act'). Hence, it is contended that the seizure of the Trust premises in Sikakalahasti by 1st respondent, is illegal, arbitrary and unconstitutional.

5. The 1st respondent filed counter affidavit and disputes the understanding and reproduction of various clauses in the Trust Deed as untenable and illegal. The 1st respondent disputes the management of the Trust by way of succession as contended in the writ affidavit. According to 1st respondent, the Assistant Commissioner of Endowments Department appointed trustees and the trustees managed the affairs of the Trust. On 22.12.2016, the legal heirs of founder trustee have come forward and endowed petition schedule property to 1st respondent/Devasthanam through

dedication described as 'kainkaryam' dated 22.12.2016 and delivered possession of the petition schedule property to 1st respondent/Devasthanam. The 1st respondent contends that the status of petitioner as Managing Trustee is not recognized by the Endowments Department, and there is no necessity in fact or law to give notice to the petitioner. The possession claimed through letter dated 22.12.2016 is not illegal and arbitrary. The 1st respondent admits that the Trust in Sikalahasti is kept in lock and safe custody of 1st respondent/Devasthanam. The 1st respondent prays for dismissing the writ petition.

6. The learned Single Judge after consideration of all facts and documents relied on by the parties through the order under appeal issued the following directions:

"Accordingly, the Writ Petition is disposed of with the following directions:

(i) The officer competent of the Endowment Department shall take steps forthwith for appointing an Executive Officer separately or any Executive Officer as incharge Executive Officer for the management of the subject trust and its properties by issuing appropriate proceedings by following the procedure established by law.

(ii) Further, in the interests of justice, steps shall be taken by the Competent Authority for appointment of Trust Board for the petitioner Trust for effective management of the Trust and its properties.

(iii) The necessary exercise in the above regards shall be completed as expeditiously as possible and in any event within two (2) months from the date of receipt of a copy of this order. Till such time, as per the interim orders of this Court, the Executive Officer of the 1st respondent Devasthanam is allowed to continue and the petitioner is allowed to assist the said Executive Officer in management.

(iv) It is needless to state that a separate individual identity of the petitioner Trust and its property as a specific

endowment shall be maintained until an order, if any warranted, is passed by the Commissioner as contemplated under Section 145 of the Act by following the procedure established by law”.

7. The learned Single Judge has taken note of the fact that there appears to be either scramble for possession or rival claims for administration of Trust are set up, and in the process of such consideration, perceived detriment to the interest of the Trust properties. To balance all the competing interests, the directions excerpted above have been issued.

8. Mr. Vidya Sagar contends that the writ petition, for any reason, is found to be without merit; the directions excerpted above to exercise the jurisdiction by the competent authority of endowments department under Section 145 of the Act ought not to have been issued. According to him, the petitioner is in possession and the sealing of premises by 1st respondent is illegal, arbitrary and unconstitutional. He further points out that the 1st respondent admits its possession of Trust building in Sikalahasti and, therefore, unless some procedure is followed, enjoyment by 1st respondent/Devasthanam and the impugned action will have to be declared as illegal, arbitrary and unconstitutional. He prays for setting aside the order under appeal.

9. The learned counsel appearing for the respondents submit that the 1st respondent is not claiming possession of Trust building through an order or proceeding made under the Act. On the other hand, the 1st respondent claims possession from the legal heirs of founder trustee of Voruganti Ramalingaiah Chetty and

Mangamma. The petitioner is required to first establish a right recognized vis-à-vis Trust as stated in the affidavit and the petitioner establishes administration of Trust properties as Trustee, filed accounts with the department or any proceedings issued by the Endowments Department recognizing the petitioner as a person-in-charge of the Trust properties. According to the counsel, the fact that a Supplemental Deed was executed on 22.12.2016 shows that the petitioner wants to assume right, title etc., from the date of execution of the Supplemental Deed dated 22.12.2016. It is, under these circumstances, replied that the learned Single Judge to protect the character of a Trust and also to ensure management by persons who are competent and eligible issued the directions to the competent authority of Endowments Department to pass orders under Section 145 of the Act. It is finally stated that the deponent of the affidavit claims to be from Voruganti family and the petitioner can also participate before the competent authority in the enquiry held under Section 145 of the Act and work out his prayer.

10. We have perused the material, the order under appeal and noted the submissions of counsel appearing for the parties.

11. *Prima facie*, we are of the view that the contentions urged by the appellant need no re-examination. The appellant if passes the first test of establishing viz., that Oruganti Nageswara Rao and his father etc., were recognized as Trustees either by the Settlement Deed dated 22.12.2016 or an order passed recognizing the deponent as trustees is established, the petitioner is not entitled to challenge the action of respondents. On the other hand, to our

pointed query whether the petitioner has evidence to show that the petitioner in its status as person-in-management of the Trust filed returns or correspondence with the endowments department at any time in the past, Mr. Vidya Sagar submits that the petitioner is also interested in pursuing the objects of Settlement Deed dated 19.05.1959 and as the status of a charitable institution such as a Trust under the Act is different, the direct administration of endowments department should be avoided and, therefore, the petitioner be treated as the person managing the affairs of the Trust. On the contrary, the constitution of Trust Board by Endowments Department through proceedings dated 06.04.1993 was made by the Endowments Department. These are matters for examination by the Department. Under these circumstances, instead of either leaving the immoveable property in limbo or allow rival claimants to meddle with the Trust properties, we are of the view that the directions excerpted above have been issued. We are in full agreement with the directions issued by the learned Single Judge in the order under appeal.

12. Mr. Vidya Sagar since submits that the petitioner is interested in protecting the Trust properties, we deem it appropriate to direct the competent authority of Endowments Department to give opportunity to Voruganti Nageswara Rao as well as 1st respondent/Devasthanam to participate in the enquiry held for constitution of Trust Board under Section 145 of the Act. The said exercise of constituting the Trust Board is directed to be completed

within two months from the date of receipt of copy of this order without fail.

13. The writ appeal fails and is, accordingly, dismissed with the above observations. No order as to costs.

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

THOTTATHIL B. RADHAKRISHNAN, CJ

8th November, 2018
Lrkm



S.V.BHATT, J