***HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

+WRIT PETITION NO: 37848, 37855, 37856, 37858, 37869, 37872, 37889, 37890, 37897, 37906, 37955, 37956, & 37957/2014

And

+CONTEMPT CASE Nos.790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801 & 802/2015

WP No.37848 of 2014

Between:

Sri Sai Srinivasa Residential Welfare Association

A Society registered under the A.P. Societies Registration

2001 vide Reg.No.1122 of 2006 at Visakhapatnam, rep. by

Its President Md. Jamal Khan, aged about 49 years,

Occ: Business, R/o 45-58-15/8, Narasimhanagar,

Visakhapatnam and another … Petitioners

And

$ State of Andhra Pradesh, rep. by its

Principal Secretary, Revenue (Endts.IV) Department

Secretariat, Hyderabad and 2 others.

…. Respondents

JUDGMENT PRONOUNCED ON **27.09.2024**

THE HON'BLE DR.JUSTICE K. MANMADHA RAO

1. Whether Reporters of Local newspapers may be allowed to see the Judgments?

- Yes -

2. Whether the copies of judgment may be marked to Law Reporters/Journals - Yes -

3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? - Yes -

DR.JUSTICE K. MANMADHA RAO

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Secretariat, Hyderabad and 2 others.

…. Respondents

! **Counsel for the Petitioner** : Sri T.D. Phani Kumar

! Counsel for the respondents : Ms. P. Sudeepthi, AGP for Endowments

Mr. N. V.S. Prasada Varma

Mr. E.Sambasiva Pratap

<Gist :

>Head Note:

? Cases referred:

1. AIR 1999 SC 1416
2. 2006 (4) SCJ 1
3. 2011 (5) ALT 777

APHC010817262014

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3310]**
(Special Original Jurisdiction)

FRIDAY ,THE TWENTY SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 37848, 37855, 37856, 37858, 37869, 37872, 37889, 37890, 37897, 37906, 37955, 37956, & 37957/2014

And

CONTEMPT CASE Nos.790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801 & 802/2015

WP No.37848 of 2014:

Between:

Sri. Sai Srinivasa Residential Welfare and Others **...PETITIONER(S)**

AND

State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner(S):

1. T D PANI KUMAR

Counsel for the Respondent(S):

1. GP FOR ENDOWMENTS (AP)
2. NVS PRASADA VARMA
3. E SAMBASIVA PRATAP

The Court made the following:

COMMON ORDER :

As the issue involved in all these matters is one and the same, they are being taken up for hearing as well as disposed of by way of this Common Order.

2. The petitioners have filed the batch of writ petitions before this Court vide WP Nos.37848, 37855, 37856, 37858, 37869, 37872, 37889, 37890, 37897, 37906, 37955, 37956, & 37957/2014 challenging the action of the respondent no.2 in not regularizing the occupation of the petitioners on par with the other occupants in the survey number, as illegal and arbitrary.

3. The grievance of the petitioners in all these writ petitions are that they have purchased the lands in different extents in Survey No.275 and 275/D1 of Adavivaram Village, Chinagadhili Mandal, Visakhapatnam District, through registered sale deeds. The 2nd respondent informed to the petitioners that the subject lands in Adavivaram, granted pattas to them i.e., respondent No.2 devasthanam. For regularization of the illegal encroachments, the State Government issued G.O.Ms.No.578 Revenue (Entds.IV) Department dated 19.8.2000 stipulating a time within which applications should be made for considering or regularization purportedly under the provisio to Section 80(1) (c) of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the 1987 Act"). Subsequently, the 1strespondent issued another G.O.Ms.No.253 Revenue (Endts.IV (2) Department, dated 03.03.2005 and extended the time. The said G.O.Ms.No.253 was issued in supersession of the earlier order in G.O.Ms.No.578. The 2nd respondent not allowed the petitioners and others to lay fencing over the lands in order to protect their

lands from the land grabbers and also not permitted to raise any constructions pending the application before them. Later, the petitioner and the association have filed WP No.2337 of 2007 before this Court seeking to direct the 2nd respondent to consider their respective applications and the same was disposed of by this Court vide order dated 26.02.2007 at the stage of admission. In pursuance of the above writpetition, the 2nd respondent communicated a cyclostyle letters vide Rc.No.C/9/6209/2007 dated 01.02.2008 stating that vendor of thepetitioners filed suits against the Devasthanam which were dismissed wherein, in the said suit, the Devasthanam contested that the patta No.214 was forged one. Thus the vendors of the petitioners have no right to sell the land in Survey No.275/D1 hence the applications of the petitioners were not considered. Hence, these writ petitions came to be filed.

4. During pendency of the above writ petitions, this Court vide order dated 09.12.2014, while issuing Rule Nisi, has granted interim direction in all the writ petitions. The operative portion of the interim order as under:

> "Heard the learned counsel for the petitioner, Government Pleader for Endowments for respondents 1 and 3 and Sri V.Venugopala Rao for second respondent.
>
> The petitioners submit that they have applied for regularization of the plots under their occupation, pursuant to G.O.Ms.No.578 Revenue (Endowments IV) Department dated 19.8.2000 (subsequently substituted G.O.Ms.No253 Revenue Endowments IV)(2) Department dated 3.3.2005) and contend that inW.P. No. 2337 of 2007 an order was passed by this Court on 26.2.2007 directing the second respondent to dispose of the applications of the parties therein, in accordance with G.O.Ms.No. 253 dated 3.3.2005.
>
> The Standing Counsel for second respondent states that by virtue of the interim order dated 7.6.2005 in WPMP. No. 15055 of 2005 in W.P.No. 11812 of 2005, this Court had prohibited entering into any compromise by the second respondent under Section 89 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987.

In this view of the matter, status quo shall be maintained by both parties in all respects in respect of the land in S.No. 275 of Adavivaram Village, Chinagadhili Mandal, Visakhapatnam District"

5. Due to non-compliance of the same, the petitioners in all these writ petitions have filed contempt cases vide CC Nos. 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801 & 802/2015. All these Contempt Cases have been filed by the petitioners to punish the respondents herein under Section 10 to 12 of Contempt of Courts Act for the willful, deliberate and wanton violation of the separate orders passed by this Court dated 09.12.2014.

6. Counter affidavit has been filed by the 2nd respondent-Devasthanam in the contempt cases. While denying all the allegations made in the petitions, inter alia contended that, there is no such sub-division of in Sy No.275 of Adivivaram village and alleged S.No.275/D1 as contended by the petitioners is only fictious. The subject land in Sy.No.275 of Adivivaram village is vacant land except 4 huts, which are in existence much prior to the filing of the W.P.No.37848/2014. As were destroyed in Hud Hud cyclone in October, 2014, they were re-erected in the same place. The land mentioned in the sale deed as claimed by petitioners cannot be identified with the land of the 1st Devasthanam and they were never in physical possession and enjoyment. It is true that G.O.Ms.No.578, dated 19.08.2000 was issued by the Government to regularize unauthorized occupations, which was initially in force for a period of one year to complete such exercise, being one time scheme, finally extended till 30.04.2004. However, G.O.Ms.No.253, dated 03.03.2005 has superseded the entire earlier scheme and directed to conclude certain exercise provided there under within three months, in

terms of Section 89 of Endowments Act and to submit a report to the Commissioner for taking further action in this regard, but no report was submitted under the said G.O, and that G.O. was actually not given effect. Meanwhile, this Hon'ble Court in PIL Case in W.P.No.11812 of 2005, directed by order dated 07.06.2005 and 22.11.2005 not to alienate endowment properties, by negotiations in entire composite State of A.P. and the same is in force, till now. For all the reasons stated above the claim of the petitioners for regularization cannot be considered and the order impugned, rejecting the claim is valid and sustainable.

7. Heard Sri T.D. Phani Kumar, learned counsel appearing for the petitioner; Ms. P. Sudeepthi, learned Assistant Government Pleader for Endowments, Sri N.V.S. Prasada Varma and Sri E.Sambasiva Pratap, learned counsels appearing for the respondents.

8. On hearing, learned counsel for the petitioners while reiterating the averments made in the petitions contended that the impugned communication wherein stated by the 2nd respondent that the applications of the petitioners were rejected is not in accordance with G.O.Ms.No.578. the said G.O was introduced in order to protect the persons who are innocent people have spent their land earned money with the savings is justifiable to regularize them. He further submits that the policy decisions of the Government categorically reveal that the regularization under the said G.O. even the persons are in occupation either authorized/unauthorized/encroacher, the respondent No.3 committee shall regularize. Thus, the question of proving title of the petitioners and their vendors

is not in task. He further submits that, it is very surprised to the petitioners that the respondents stated that there was no layout at all, on the other hand, the 2nd respondent regularized the occupations of certain persons from same layout same survey number, who were also purchased from the same vendors. But the 2nd respondent has shown indiscrimination to the petitioners for regularizing the occupations for the reasons best known to it.

9. Learned counsel further submits that taking advantage of the same, some third parties/land grabbers laid sheds over the lands of the petitioners when the petitioners obstructed them the officials of the 2nd respondent informed the petitioners that they have an enforcement team to protect the lands under the control of the 2nd respondent, but the 2nd respondent totally failed to control the land grabbers/third parties in interference with the peaceful possession of the petitioners in their respective plots. To that extent, the petitioners have made representations/applications. But they have rejected by the 2nd respondent. So, the action of the 2nd respondent in not regularizing the occupation of the petitioners on par with other occupants in the survey numbers is highly illegal and arbitrary. Hence learned counsel requests this Court to pass appropriate orders.

10. *Per contra*, learned counsels appearing for the respondents while reiterating the averments made in the counter affidavit, contended that, this Hon'ble Court was pleased to examine the similar issue in W.A.No.536 of 2010 arising out of order in W.P.No.22 of 2010 and in W.P.No.25672 of 2002, W.P.No.12587 of 2013 and held that the scheme for regularization is not in force and the rejection for such claim is valid. The very writ petitions are not

maintainable for the relief sought for. He further submits that the whole grievance in the present contempt cases is that this respondent has not allowed the petitioners to make fencing to protect the subject land, on the other hand allowed the trespassers trying to lay sheds and kept quite without preventing them, as such, it amounts to contempt. He further submits that, along with these writ petitioners, several others filed similar writ petitions claiming different extents, in Sy.No.275 of Adivivaram village. There are three sheds existing since long time in which three families are residing. The said sheds are existing even prior to passing of impugned order and interim directions in the present writ petitions. But subsequent to the orders of status quo dated 09.12.2014, no fresh encroachments in that land. He further submits that the allegation of allowing others and preventing the petitioners, subsequent to orders of this Hon'ble Court is totally incorrect. As earlier, the land protection cell of the subject Devasthanam has been supervising, prior and subsequent to order of this Hon'ble Court and the same is being continued, so as to prevent encroachments and there is no fresh cause to file the present Contempt Cases. He further submits that, in obedience to the orders of this Court, the 2nd respondent Devasthanam strictly maintaining *status quo* and there is no deviation either intentional or implied. It is the petitioners who intended to encroach up on some land, first time, under the guise of the orders of this Hon'ble Court, which amounts to contempt on their part. But sofar as this respondent Devasthanam is concerned, it did not deviate from the orders of *status quo* and following the same in true spirit.

11. On a perusal of the material on record, this Court observed that, as per contention of the petitioners that they are in possession and enjoyment of the

land in Survey No.275 and 275/D1 and that the Government has issued G.O.Ms.No.578 dated 19.8.2000 prescribing guidelines and amounts that are to be collected for regularization of lands and issuance of No Objection certificate by the 2nd respondent Devasthanam. But the 2nd respondent rejected their applications.

12. Moreover, it is the contention of the respondent temple that the subject land claimed by the petitioners is the land belonging to 2nd respondent Devasthanam and that the petitioners are seeking to regularize their occupation and enjoyment on the subject land, which actually belongs to 2nd respondent Devasthanam. He also placed reliance on a Division Bench judgment of this Court in W.A No.536 of 2010 dated 7.9.2010. in the said judgment, this Court observed as under:

> "The writ petition was dismissed on the ground that the writ petitioner-appellant herein failed to establish that he had submitted an application in terms of G.O.Ms.No. 578, before the due date i.e., 30-4-2004 (the original date stipulated for submission of applications under G.O.Ms.No. 578 was extended thereafter in subsequent orders). In fact with the eclipse of G.O.Ms.No. 578 (whatever be the legitimacy of that G.O) the only recourse open for the Commissioner of Endowments is to permit/authorize alienation of the lands belonging to the 4th respondent Devasthanam by a public auction. Since the lands do not belong to the State or any State instrumentality, all the State authorities (the Commissioner of Endowments included) are required, in terms of the provisions of 1987 Act and even otherwise, having regard to the ordained religious neutrality of the State under our Constitutional scheme, only to Act in the interests of Endowment concerned in matters pertaining to the property of Devasthanam and on no other considerations.
>
> On the above premise, the rejection of the writ petition by the learned single Judge is impeccable and warrants no interference. The appeal is accordingly dismissed at the stage of admission, after hearing the learned counsel for the appellant and the learned Government Pleader for Endowments. No costs."

13. Having regard to the facts and circumstances and following the above judgment, this Court also held that, since the land in question does not belong to the State Government or to any instrumentality of the State and, prima facie, it

belongs to the 2nd respondent Devasthanam, there cannot be any regularization of the petitioners' occupation of the said land.

14. Therefore, all the Writ Petitions i.e., WP Nos.37848, 37855, 37856, 37858, 37869, 37872, 37889, 37890, 37897, 37906, 37955, 37956, & 37957/2014 are dismissed. There shall be no order as to costs.

15. It is made clear that the interim direction passed by this Court dated 09.12.2014 in all the writ petitions are hereby vacated.

16. Insofar as all the Contempt Cases are concerned, in view of the dismissal of all the writ petitions, no further orders are required to be passed in these Contempt Cases and hence all the contempt cases i.e., CC Nos. 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801 & 802/2015 are also dismissed. No costs.

17. As a sequel, interlocutory applications, if any pending, shall stand closed.

DR. K. MANMADHA RAO, J.

Date : 27-09-2024

Gvl

HON'BLE DR. JUSTICE K. MANMADHA RAO

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