IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

(Special Original Jurisdiction)

TUESDAY ,THE THIRTY FIRST DAY OF DECEMBER

TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 33483 OF 2013

Between:

Deity Rama, Nookalamma Temple Road, Ward No.9, Pithapuram, East Godavari District Rep., by His Managing Trustee

...PETITIONER

AND

1. The State of Andhra Pradesh, Rep., by its Principal Secretary Revenue (Endowments) Department Secretariat, Hyderabad.
2. The Commissioner of Endowments, Government of Andhra Pradesh, Hyderabad
3. The Regional Joint Commissioner of Endowments, Rajahmundry
4. The Dy. Commissioner of Endowments, Rajahmundry, East Godavari District
5. The Assistant Commissioner of Endowments, Kakinada, East Godavari District
6. The Inspector of Temples, Kakinada, East Godavari District.
7. The Sub-Registrar, Sub-Registrar Office, Pithapuram, East Godavari District.
8. Donkina Konda, S/o Appala Raju, Occ: cultivation, Nookalamma Temple Road, Ward No.9, Pithapuram, East Godavari District
9. Donkina Raghava S/o Appala Raju, Occ: cultivation, Nookalamma Temple Road, Ward No.9, Pithapuram, East Godavari District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the inaction of Respondents 1 to 6 in protecting the endowment property of Deity Rama admeasuring 158 4/9 yards of vacant site situated at Nookalamma Temple Road, Ward No.9, Pithapuram, East Godavari District, as illegal, unjust, arbitrary and in violation of Articles 14, 21, 25 and 26 of the Constitution of India and consequently direct the respondents to protect the endowment property of Deity Rama.

I.A. NO: 1 OF 2013(WPMP. NO: 41662 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the 7th respondent Sub-Registrar not to accept and register any documents of alienation in connection with the property of Deity Rama admeasuring 158 4/9 yards of vacant site situated at Nookalamma Temple Road, Ward No.9, Pithapuram, East Godavari District, pending disposal of the above writ petition.

Counsel for the Petitioner:SRI K R PRABHAKAR
Counsel for the Respondents No.1 to 6: GP FOR ENDOWMENTS
Counsel for the Respondent No.7: GP FOR STAMPS AND REGISTRATION
Counsel for the Respondents No.8,9: SRI P R PRASAD

The Court made the following: ORDER

APHC010571802013

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

TUESDAY ,THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 33483/2013

Between:

Deity Rama, Nookalamma Temple Road, ...**PETITIONER**

AND

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

Counsel for the Petitioner:

1.K R PRABHAKAR

Counsel for the Respondent(S):

1.GP FOR REVENUE

2.P R PRASAD

3.GP FOR ENDOWMENTS

The Court made the following Order:

The Writ Petition is filed under Article 226 of the Constitution of India, seeking the following relief:

> *".....to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of Respondents 1 to 6 in protecting the endowment property of Deity Rama admeasuring 158 4/9 yards of vacant site situated at Nookalamma Temple Road Ward No.9, Pithapuram, East Godavari District, as illegal, unjust, arbitrary and in violation of Articles 14, 21, 25 and 26 of the Constitution of India and*

consequently direct the respondents to protect the endowment property of Deity Rama....."

2. Brief facts of the case are that the petitioner is the owner of vacant site admeasuring 158 4/9 yards, situated at Nookalamma Temple Road, Ward No.9, Pithapuram, East Godavari district (for short "subject property"). About 120 years back, the great grandfather of the petitioner i.e., Sri Padmaraju donated the subject property to the petitioner Lord Rama and installed the Idol in a thatched shed and the said Padmaraju acted as Managing Trustee to the Deity and his property. About 80 years back, the thatched shed in which deity was installed in subject property was collapsed. Since then, the subject property was kept vacant. The general public and statutory authorities have been treating the subject property as the property belongs to Deity Rama and treating it as Rama Kovela (temple), which was shown in sale deeds dated 10.05.1965 and 02.02.1983 of the adjacent house sites which were registered with the office of Sub-Registrar, Pithapuram. Though it is vacant, general public till recent past had conducted bajanas in the subject property. After the death of Padmaraju, his natural son Doolla Ayyanna became hereditary managing trustee of subject property. While things stood thus, the respondents 8 and 9 unauthorizedly kept cement pipes in subject property. Accordingly, the said Doolla Ayyanna issued a legal notice and called upon them to execute regular lease deed to continue possession in the subject property as lessees. The said Doolla Ayyanna filed a suit in O.S.No.168 of

1985 on the file of District Munsif's Court, Pithapuram against the respondents 8 and 9 for declaration of his title and after full fledged trial, the suit was decreed on 22.05.1990 in favour of the petitioner Deity Rama, Pithapuram. After the death of Doolla Ayyanna on 30.10.1992, his elder son Doolla Sattiraju became managing trustee of subject property. In the year 2004, the hereditary managing trustee decided to construct RCC roofed permanent temple for Deity Rama in the subject property. While so, the respondents 8 and 9 started to claim that the property belongs to them and trying to sell the property of Lord Rama to gullible third parties. The family of Managing Trustee made a representation to the Tahsildar on 10.06.2004 and 05.11.2004 requesting him to conduct survey and demarcate the said land. Thereafter, the petitioner came to know that the respondents 8 and 9 filed first appeal in A.S.No.5 of 1990 against the Decree and Judgment in O.S.No.168 of 1985 and the same was dismissed on 17.06.1991 and the second appeal vide S.A.No.241 of 1992 was also dismissed by this Court on 04.04.1996. The petitioner made representations to the respondents 1 to 6 including the representation dated 07.09.2011. But the respondents have not taken any steps to protect the subject religious and endowments property. Further, the petitioner also made a representation to the Tahsildar dated 30.01.2013 not to register any document in connection with alienation with property in question.

Aggrieved by the inaction of the respondents 1 to 6 in protecting the subject property, the present writ petition has been filed.

3. This Court vide order dated 22.11.2013 has granted the following interim order:

> *"The Assistant Commissioner of Endowments, East Godavari shall examine the complaint of the petitioner and if it is found to be correct, take effective steps for protecting the property in question."*

4. Heard Mr.Bobbili Srinivas, learned counsel representing Mr.K.R.Prabhakar, learned counsel for the petitioner and Mr.P.Srinivas, learned Assistant Government Pleader for Endowments, for the respondents.

5. On hearing, learned counsel for the petitioner while reiterating the contents urged in the writ petition, submits that, as the second appeal was dismissed on 04.04.1996 and no Executive Petition was filed in O.S.No.168 of 1985, the petitioner filed E.P.No.85 of 2004 in O.S.No.168 of 1985 on the file of Junior Civil Judge, Pithapuram. Thereafter, the petitioner's family came to know that already an EP was filed subsequent to Judgment and Decree dated 22.05.1990. Then, the respondents 8 and 9 started to claim that earlier the petitioner filed E.P.No.19 of 1990, wherein though record of delivery was prepared in pursuance of the order in E.P.No.19 of 1990, they were not dispossessed from the suit property. Hence, the petitioner approached MRO and obtained copy of judgment in second appeal. But, E.P.No.85 of 2004 was

dismissed on 27.07.2006. He further submits that the petitioner Deity's title over the subject property is declared in O.S.No.168 of 1985. Hence, it is clear that the subject property is a religious endowment coming under the purview of Endowments Act, 1987. But the respondents 8 and 9 again encroached the subject property in the month of April, 2004 and sicne then, they are in unathorized possession and trying to sell the same. He further submits that, as per Section 1(3)(b) of the Endowments Act, the provisions of Endowment Act applies to all Hindu Public Religious Institutions and Endowments, whether registerd or not and as such, the respondents 1 to 6 have to protect the subject property by initiating appropriate proceedings for eviction of encroachers from the endowment land under the provisions of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 and recognize the petitioner as member of founder family and protect the endowment property. Therefore, learned counsel requests this Court to pass appropriate orders.

6. Per Contra, learned Assistant Government Pleader vehemently opposed for grant of any relief in the present Writ Petition and prayed to dismiss the same.

7. Perused the record.

8. On a perusal of the material on record, this Court observed that, the petitioner filed O.S.No.168 of 1985 against the unofficial respondents 8 and 9 for declaration of title that the plaintiff is the owner of plaint schedule property and for consequential relief for possession of plaint schedule property after ejecting the defendants and for future profits against them till possession if given and for costs. The said suit is decreed in favour of the petitioner on 22.08.1990 on the file of District Munsif, Pithapuram. Thereafter, the unofficial respondents have preferred appeal suit vide A.S.No.5 of 1990 on the file of Sub-ordinate Judge, Pithapuram and the same was dismissed on 17.06.1991. Thereafter, the said unofficial respondents 8 and 9 have preferred second appeal vide S.A.No.241 of 1992 before this Court and the same was dismissed on 04.04.1996.

9. Having regard to the facts and circumstances of the case and on considering the submissions of both the learned counsels, this Court is of the opinion that, the petitioner has ownership for the subject property in view of O.S.No.168 of 1985. Further, this Court has also granted interim order on 22.11.2013. As the respondents have not filed any counter till date, this Court is inclined to dispose of the present writ petition, while making the interim order as absolute, directing the respondents 1 to 6 to take effective steps for protecting the subject property, by following due process of law, if the petitioner is in possession.

10. Accordingly, the Writ Petition is disposed of. No costs.

11. As a sequel, miscellaneous applications pending, if any, shall stand closed.

Sd/- U.SRI DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, State of Andhra Pradesh, (Endowments) Department Secretariat, Amaravati.
2. The Commissioner of Endowments, Government of Andhra Pradesh, Amaravati.
3. The Regional Joint Commissioner of Endowments, Rajahmundry
4. The Dy. Commissioner of Endowments, Rajahmundry, East Godavari District
5. The Assistant Commissioner of Endowments, Kakinada, East Godavari District
6. The Inspector of Temples, Kakinada, East Godavari District.
7. The Sub-Registrar, Sub-Registrar Office, Pithapuram, East Godavari District.
8. Donkina Konda, S/o Appala Raju, Occ: cultivation, Nookalamma Temple Road, Ward No.9, Pithapuram, East Godavari District
9. Donkina Raghava S/o Appala Raju, Occ: cultivation, Nookalamma Temple Road, Ward No.9, Pithapuram, East Godavari District
10. One CC to SRI. K. R. PRABHAKAR, Advocate [OPUC]
11. Two CCs to GP FOR STAMPS AND REGISTRATION, High Court of Andhra Pradesh. [OUT]
12. Two CCs to GP FOR ENDOWMENTS ,High Court Of Andhra Pradesh. [OUT]
13. One CC to SRI. P. R. PRASAD, Advocate [OPUC]
14. Three C.D.Copies

nm

HIGH COURT

DATED:31/12/2024

ORDER

WP.No.33483 of 2013



DISPOSING OF THE WP WITHOUT COSTS