APHC010681612014

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

FRIDAY ,THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE K MANMADHA RAO

WRIT PETITION NO: 31347/2014

Between:

Sri Sitarama Swamy Temple **...PETITIONER**

AND

Prl Scy Endowment Hyd 4 and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. N A RAMACHANDRA MURTHY

Counsel for the Respondent(S):

1. GP FOR ENDOWMENTS (AP)

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 more in the nature of Writ of Mandamus declaring the action of the 4th respondent in not implementing the Orders of the 1st respondent vide proceedings Memorandum No.19366/Endts.IV(2)/1005-2, dated 29.12.2006 is illegal, arbitrary and violation of Article 14, 19 and 21 of Constitution of India, Consequently direct the 4th respondent to implement the orders of the 1st Respondent by initiating the proceedings Under Section 83 of the Act, 30/87 of A.P.Hindu Religious Institutions and Endowment Act, 1987 by forthwith...."***

2. Brief facts of the case are that the petitioner is a temple representing by its Managing Trustee. The petitioner's great grandfather Sri Chalakani Dhramrayanam constructed the petitioner temple, who uses to manage the affairs of the temple and the Government also recognized him as a Founder Trustee. As a hereditary right, the petitioner succeeded as Managing Trustee. The petitioner temple is the owner of the scheduled land to an extent of Ac.12.19 cents in Aryavatam and Gollapalem Village, Kajuluru Mandal, East Godavari district (for short "subject land"), which was gifted by Raja of Pithapuram for the maintenance of day to day affairs of the temple like Nithya Deepa, Dhupa Naivaidyam. The said land was recorded in Endowment Register vide Board Order No.1764, dated 08.04.1950, by approving the register of properties of the temple. In the said Board Order, there was a clear request to the trustee to take immediate steps for recovery of possession of the temple lands from the 5th respondent, who is the archaka of the temple. While so, on an application made by the 5th respondent, the Revenue Divisional Officer, Kakinada, has issued pattadar pass books and title deeds in favour of the 5th respondent. Questioning the same, the petitioner filed a revision before the Joint Collector, East Godavari district and the same was allowed, directing the Revenue Divisional Officer, Kakinada to issue pattadar pass book and title deeds in the name of the temple. Aggrieved by the same, the 5th respondent filed W.P.No.25278/2001 and the same was disposed of on

09.10.2010. While things stood thus, the 5th respondent sold away the land to an extent of Ac.4.09 cents in Survey No.115/1 belongs to the petitioner temple to some third parties. Even though there was an injunction order granted in I.A.No.1015 of 2000 in O.S.No.1088 of 2000 on the file of 1st Additional Junior Civil Judge, Kakinada and the said suit was decreed in favour of the petitioner temple by cancelling the sale deeds executed by the 5th respondent. In compliance of the RDO orders, R.O.R. pass books and title deeds were issued to the petitioner, but no possession was delivered. Hence, the petitioner preferred appeal before the Commissioner, Endowments Department, Hyderabad. In turn, the Commissioner has delegated the matter to the Regional Joint Commisser, Kakinada. The Regional Joint Commisser, Kakinada has passed the orders on 20.03.2006, directing the 4th respondent to take action at his level for getting the pending litigation dispose of in favour of the temple and guide to the trustee. Thereafter, the 1st respondent issued orders vide Memorandum No.19366/Endts.IV(2)/2006-2, dated 29.12.2006, directing the 4th respondent to launch disciplinary action against the Archaka and the eviction of the persons on ground should have been done under Section 83 of the Act 30/87. But the 4th respondent is not taking any action. Aggrieved by the same, the present writ petition has been filed.

3. Though the writ petition is filed in the year 2014, so far the respondents have not filed any counter till date. Therefore, the right to filing of

counter by the respondents is hereby forfeited under Rule 12(1) of Writ Proceeding Rules, 1977.

4. Heard Mr.N.A.Ramachandra Murthy, learned counsel for the petitioner and Mr.P.Srinivas, learned Assistant Government Pleader for Endowments, for respondent Nos.1 to 4.

5. On hearing, learned counsel for the petitioner while reiterating the contents urged in the writ petition, submits that, though the 1st respondent has issued directions to the 4th respondent vide order dated 29.12.2006, the 4th respondent is not taking any action. The petitioner is making repeated representations to take action and implement the orders of the 1st respondent dated 29.12.2006. But the respondents are not taking any action. He further submits that the 5th respondent-Archaka is enjoying the temple lands without any right by colluding with officials. 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 submits that, under Section 8(2) of the Act, if any person is aggrieved as to any rights of which he is in possession by an entry made in any records of rights, he may institute a suit against any person denying or interested to deny his title to such right, for declaration of his right under Chapter-VI of the Specific Relief Act, 1963 and the entry in the record of rights shall be amended in accordance

with any such declaration. He further submits that, during the pendency of the disciplinary action, the 5th respondent-Archaka has passed away. Therefore, learned Assistant Government Pleader submits that this Court may pass appropriate orders.

7. Perused the record.

8. On a perusal of the material on record, this Court observed that, the 1st respondent has passed orders vide Memorandum No.19366/ Endts.IV(2)/2006-2, dated 29.12.2006 with the following directions:

> "Government after careful examination of the contents of the Review Petitioner and also examining the records and material, it is observed that when Pattadar Passbooks were in favour of the temple and injunction orders were brought against sale of land, the Assistant Commissioner, Endowments Department, Rajahmundry, ought to have taken necessary action for launching disciplinary action against the 'Archaka' who sold away the land.
>
> The Assistant Commissioner, Endowments Department, Rajahmundry is therefore requested to launch disciplinary action against the Archaka and the eviction of the persons on ground should have been done under Section 83 of the Act, 30/87, as the sale affected by Archaka is null and void."

9. As seen from the impugned Memo, it is observed that, the Assistant Commissioner, Endowments Department, Rajahmundry, was requested to launch disciplinary action against the said Archaka. However, it is the contention of learned Assistant Government Pleader that the said Archaka has passed away during the pendency of disciplinary action.

10 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, although the writ petition is filed in the year 2014, the action of the 4th respondent in failing to comply with the order of the 1st respondent, vide

Memorandum No.19366/Endts.IV(2)/2006-2, dated 29.12.2006, is illegal and arbitrary. Therefore, this Court is inclined to dispose of the writ petition, directing the 4th respondent to implement the order of the 1st respondent vide Memorandum No.19366/ Endts.IV(2)/2006-2, dated 29.12.2006 and take steps to take over the possession of the subject land and hand over the same to the petitioner, within a period of three (03) months from the date of receipt of a copy of this order, as the sale executed by the Archaka is null and void.

11. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel, miscellaneous applications pending, if any, shall stand closed.

_____

Dr. K. MANMADHA RAO, J

Date : 28.02.2025
BMS