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Whether only operative part
of the judgment is pronounced
or whether full judgment is
pronounced : FULL.

[3584]

APHC010162672021

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

WRIT APPEAL NO: 597 of 2024

Sri Bhuvaneswari Peetam ...Appellant

Vs.

N. Sudhakar and others ...Respondent(s)

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CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJAN

DATE : 11th November 2026

Present:

Advocate for Appellant: MR. P RAJASEKHAR

Advocate(s) for Respondent(s): MR.D V SASIDHAR,
GP FOR ENDOWMENTS, AND
MR.KAPPERA KOTESWARA RAO
SC for Endowments, AP Region.

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JUDGMENT: (per Hon'ble Sri Justice Challa Gunaranjan)

Present intra-Court appeal, under Clause 15 of the Letters Patent, is directed against order, dated 20.03.2021, in W.P.No.11859 of 2020, whereby learned Single Judge allowed the writ petition. Thus, aggrieved, 5th respondent in writ petition preferred present appeal.

2. 1st respondent herein preferred writ petition with following prayer:

> "….to issue an appropriate Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of respondents 1 to 4 in handing over Sri Sita Rama Kalyanamandapam, measuring 583 1/3 Sq. Yards of land including building constructed therein situated at Satyanarayanapuram, Vijayawada, Krishna District, belonging to the 4th respondent temple under the guise of Proceedings of the 1st respondent Memo No.REV-01-Endts./979096/2018-Endts-II, dated 19.05.2020, and the 2nd respondent consequential proceedings in RC.No.B2/12026(51)/38/2020, dated 02.07.2020 to the 5th respondent as bad, illegal, arbitrary, without jurisdiction and violative of principles of natural justice and being violative of Articles 14, 21 and 25 of Constitution of India and consequently, set aside the Proceedings of the 1st respondent Memo No.REV-01-Endts/979096/2018-Endts.II, dated 19.05.2020, and the 2nd respondent consequential proceedings in RC.No.B2/12026(51)/38/2020, dated 02.07.2020 and restore the possession of the Sri Sitaram Kalyanamandapam to the 4th respondent temple and pass…."

3. **(a)** In brief, case of 1st respondent/writ petitioner before Writ Court was that as devotee of 5th respondent temple, and person interested, he chose to file the writ petition. It was stated that 5th respondent was a notified institution under Section 6(b) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, (hereinafter referred to as "the Act"), and it was having absolute ownership rights over Sri Sitarama Kalyana Mandapam ("SSK Mandapam"), which factum was also recorded in the property register of the temple, duly approved by 4th respondent Assistant Commissioner, Endowments Department.

(b) 5th respondent/writ petitioner initially filed O.A. No.130 of 2009 before Deputy Commissioner, Endowments Department, Kakinada, under Section 83 of the Act, for eviction of encroacher viz., G.V. Purushottama Sarma, who claimed ownership over SSK Mandapam. The same was allowed *ex parte,* vide order, dated 16.02.2010. However, revisional authority, by setting aside the same, remanded the proceedings for *de-novo* consideration. Later, O.A. was dismissed, by order dated 05.06.2010. The same led to issuance of proceedings by 3rd respondent Commissioner of Endowments directing the temple not to interfere with possession and enjoyment of G.V. Purushottam Sarma over SSK Mandapam.

(c) It was stated that 5th respondent, thereafter, filed W.P. No.19640 of 2010 challenging the orders in O.A., which was allowed by order, dated 07.11.2014 on the aspect of jurisdiction, however, respondent-encroacher therein was permitted to file statutory appeal before this Court. The same was challenged in Writ Appeal No.89 of 2015 unsuccessfully. Thereafter, statutory appeal was preferred in C.M.A. No.130 of 2015, and the same ended in dismissal, vide order dated 24.03.2015, thus, confirming *ex parte* order, dated 16.02.2010.

(d) Consequently, it was stated that possession of SSK Mandapam was taken over by the temple on 27.03.2015. Aggrieved by aforesaid orders in both writ appeal as well as C.M.A., G.V.Purushottama Sarma preferred Petition for Special Leave to Appeal (C) No.17253 of 2015,

before Hon'ble Apex Court, vide common order, dated 17.05.2018, the same was also dismissed. However, liberty was granted to appellant therein to approach competent Civil Court for declaration of title. Despite the same, no further proceedings were stated to be initiated. Meanwhile, as possession was taken over, 3rd respondent Commissioner issued proceedings, dated 30.03.2015, withdrawing earlier proceedings, dated 20.08.2010.

(e) That being so, parallely, one Mr.D.Chandrasekhar, claiming to be Dharmadhikari of appellant herein, filed W.P. No.37375 of 2014 and W.P. No.14942 of 2015 challenging orders, dated 16.02.2010, in O.A. and eviction of G.V. Purushottam Sarma. Pending the same, he is also stated to have made representation, dated 04.01.2018, requesting for re-delivery of possession of SSK Mandapam to appellant. Later, W.P. No.43143 of 2018 was filed seeking direction to consider aforesaid representation, and the same was disposed of by order, dated 28.11.2018, directing respondents therein to consider such representation.

(f) Executive Officer of 5th respondent temple, though submitted report, dated 07.01.2019, opposing the handing over of possession and also referred to the previous litigation, including orders of Hon'ble Apex Court which granted liberty to the appellant therein for filing Suit for declaration, nevertheless, 2nd respondent Government issued proceedings, dated 19.05.2020, accepting the proposal for handing over

possession subject to withdrawal of all writ petitions, including one mentioned above. Consequently, 3rd respondent Commissioner issued proceedings, dated 02.07.2020, giving effect to the same. Assailing both these proceedings, writ petition was preferred.

4. Before Writ Court, it was contended that 3rd respondent acted beyond its jurisdiction in deciding to accede request of appellant for handing over SSK Mandapam, and such decision was not in the interest of temple, besides subverting and compromising institutional interests. Further, that the decision was *ex facie* illegal in view of previous litigation, in particular, order of Hon'ble Apex Court which negated claim of appellant. It was also contended that impugned decision would not even come under the purview of Section 145 of the Act.

5. Both 3rd respondent Commissioner as well as appellant herein filed counter-affidavits opposing the writ petition.

6. Learned Single Judge, after exhaustive consideration of past litigation and the manner in which impugned proceedings came to be issued, allowed writ petition by setting aside impugned proceedings. Thus, present writ appeal.

7. Heard Mr.P.Rajasekhar, learned counsel for appellant and Mr.D.V.Sasidhar, learned counsel for 1st respondent/writ petitioner and

learned Government Pleader for Endowments and Mr.K.Koteswara Rao, learned Standing Counsel for Endowments, for official respondents.

8. **(a)** Learned counsel for appellant contended that 5th respondent temple has no right to the subject property, i.e., SSK Mandapam, and in the earlier proceedings in A.S. No.45 of 1977, parties since had categorically agreed to the position that both institutions are independent and separate, hence, decision of 2nd respondent Government as well as 3rd respondent Commissioner cannot be found fault with. It is further contended that 5th respondent having instituted LGOP No.15 of 1993 on the file of the Special Court under A.P. Land Grabbing (Prohibition) Act, 1982, seeking declaration that G.Bhogeswara Sarma and D.Rama Rao, who are hereditary trustee and tenant of SSK Mandapam, respectively, as landgrabbers and for their eviction, which ended in dismissal with observation that it was not owner of subject property, the same having attained finality, it has no right to continue with possession of the property.

(b) It is further contended that even thereafter, Endowments Tribunal while dismissing O.A.No.130 of 2009, vide order, dated 05.06.2010, has rendered categorical finding that 5th respondent temple and SSK Mandapam were separate institutions, and it had no title to the subject property, basing on which even 3rd respondent Commissioner also issued proceedings, dated 20.08.2010. Thus, the aspect of title clearly got negated and confirmed in favour of appellant. Lastly, it is contended that

subject matter in O.A. No.130 of 2009, by which *ex parte* orders were passed ordering eviction, later confirmed and ended in dismissal of SLP, merely related to eviction proceedings but not concerned with the issue of title, thus, the same cannot form the basis for challenging the decision of Government and Commissioner in issuing impugned proceedings. It is stated that learned Single Judge has not considered aforesaid contentions in proper perspective and incorrectly allowed the writ petition. Thus, urged to allow the appeal.

9. Learned counsel for 1st respondent/writ petitioner, opposing aforesaid submissions, while supporting impugned order, contended that on the face of the order passed by Hon'ble Apex Court which categorically negated the claim of appellant over subject property with liberty to approach competent Civil Court seeking declaration of title, the Government ought not to have issued impugned proceedings, which virtually amounted to overreaching the orders. It is further submitted that writ petition filed by SSK Mandapam, vide W.P. No.19474 of 2016, which challenged orders, dated 30.03.2015, by which earlier proceedings, dated 20.08.2010 were withdrawn, since ended in dismissal, vide order dated 18.10.2024, and attained finality, appellant is precluded from re-canvassing the very same issues. Hence, pleaded for dismissal of appeal.

10. We have gone through the record and considered the submissions advanced by learned counsels for parties.

11. Appellant asserts title to SSK Mandapam, claiming that appellant and 5th respondent to be independent and separate institutions. In the process, appellant justifies how it has derived the said property from its original donors. Reference has also been made to various proceedings in O.S. No.45 of 1977, L.G.O.P. No.15 of 1993, besides later proceedings initiated by 5th respondent temple in O.A. No.130 of 2009 followed by subsequent proceedings. For a moment, we are not called upon to decide title to subject property. The issue of title was indeed raised in previous round of litigation before various forums, which ultimately, when landed before Hon'ble Apex Court in S.L.P. No.17253 of 2015, while dismissing the appeals, the following observation was made:

> "We are not inclined to interfere with the impugned order passed by the High Court.
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> Accordingly, the Special Leave Petitions stand dismissed.
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> However, we grant liberty to the petitioner to approach the Civil Court for declaration of the title in accordance with law and if any suit is filed, the Trial Court is directed to consider the same on merits without being influenced by any of the observations made by the Courts."

12. Admittedly, after aforesaid order, dated 17.05.2018, neither appellant therein nor appellant before us filed any Suit seeking declaration of title. Insofar as possession was concerned, 5th respondent claimed to have taken the same on 27.03.2015. Further, it is also to be noted that proceedings, dated 20.08.2010, issued by the Commissioner directing 5th respondent temple not to interfere with the possession and enjoyment of

appellant over SSK Mandapam, stood withdrawn later by issuance of proceedings, dated 30.03.2015. Even challenge laid to the said proceedings in W.P. No.19474 of 2016 was also rejected by dismissing the same, vide order dated 18.10.2024.

13. Learned counsel for appellant could not deny the said fact, and it is stated that no further appeal is preferred against the said order.

14. In aforesaid background, the contention of learned counsel for appellant that the issue canvassed before learned Single Judge merely concerned adoption of SSK Mandapam by appellant and has nothing to do with either title or possession of subject property, in our considered view, is completely misconceived. Appellant has not established any right to claim even such adoption, particularly when it was opposed by Executive Officer of the temple vide report, dated 07.01.2019. We also notice that impugned proceedings issued by 2nd respondent State Government do not provide any reasons, except for stating that it is agreeable to proposal of handing over SSK Mandapam to appellant subject to withdrawal of various writ petitions. Even the consequential proceedings issued by 3rd respondent Commissioner do not provide any reasons. Thus, the contention that impugned proceedings were validly issued in exercise of powers under Section 154 of the Act deserves any consideration. Learned Single Judge was justified in holding that even otherwise proceedings issued were not in accordance with Section 145 of

the Act, inasmuch as transfer of management was neither in the interest of nor beneficial to 5th respondent, but was for benefiting appellant. We, therefore, do not find any merit in writ appeal, accordingly, the same stands dismissed. No order as to costs.

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

LISA GILL, CJ **CHALLA GUNARANJAN, J**

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