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APHC010263032014

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3330]
(Special Original Jurisdiction)

WEDNESDAY, THE 25th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No. 40139/2014

BETWEEN:

1. B. BHASKAR REDDY, & 4 OTHERS, S/o. NARAYANA REDDY HINDU, AGED 60 YEARS, OCC: AGRICULTURIST R/o. T. GOKULAPADU VILLAGE, KRISHNAGIRI MANDAL KURNOOL DISTRICT.
2. B. PURUSHOTHAM REDDY, S/o. NARAYANA REDDY AGED 55 YEARS, OCC: AGRICULTURIST R/o. T. GOKULAPADU VILLAGE, KRISHNAGIRI MANDAL KURNOOL DISTRICT.
3. B. RADHAMMA, W/o. LATE RAMANA REDDY AGED 45 YEARS, HOUSEWIFE R/o. T. GOKULAPADU VILLAGE, KRISHNAGIRI MANDAL KURNOOL DISTRICT.
4. B. SOMASEKHARA REDDY, S/o. NARAYANA REDDY AGED 49 YEARS, OCC: AGRICULTURIST R/o. T. GOKULAPADU VILLAGE, KRISHNAGIRI MANDAL KURNOOL DISTRICT.
5. B. GIRIPRASADA REDDY, S/o.NARAYANA REDDY AGED 40 YEARS, OCC: AGRICULTURIST R/o. T. GOKULAPADU VILLAGE, KRISHNAGIRI MANDAL KURNOOL DISTRICT.

...PETITIONER(S)

AND

1. PRL SECY ENDOWMENTS HYD 3 OTHERS, REP. BY ITS PRL. SECRETARY, ENDOWMENTS, SECRETARIAT, HYDERABAD.
2. SRI SEETHARAMACHANDRA SWAMYVARI, DEVASTANAM REP. BY ITS EXECUTIVE OFFICER, BADHRACHALAM TOWN, KHAMMAM DISTRICT.

3. THE EXECUTIVE OFFICER, SRI SEETHARAMACHANDRA SWAMYVARI DEVASTANAM BADHRACHALAM TOWN, KHAMMAM DISTRICT.
4. THE TAHSILDAR, KRISHNAGIRI MANDAL, KURNOOL DISTRICT.

...RESPONDENT(S):

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 any appropriate Writ, order or direction preferably a writ in the nature of Writ of Mandamus, declaring the action of the 3rd respondent issuing the impugned proceedings to 4th respondent to issue pattadar pass books and title deeds in favour of 2nd respondent on the basis of a unrelated will dated 9-2-1941 in respect of lands in Sy.No.90/1, 90/3, 247, 437, 438, 462, 472, 70, 79/A,B, 91, 95/2, 95/1, 97, 171, 170, 169, 95/1, 173, 88/B of Thallagokulapadu village, Krishnagiri Mandal, Kurnool District and respondent 3 and 4 causing threats of dispossession, as illegal, arbitrary, malafidy, intentional, abuse of powers and opposed to principles of natural justice and consequently direct the respondents not to claim the property of the petitioners and to pass such other order or orders.

Counsel for the Petitioner(S):

1. KOTHAPALLI SAI SRI HARSHA

Counsel for the Respondent(S):

1. MUNDURU ESWAR BRAHMANAND
2. GP FOR REVENUE (AP)
3. GP FOR ENDOWMENTS (AP)
4. Munduru Eswar Brahmanand

The Court made the following:

ORDER:

The present writ petition is filed under Article 226 of the Constitution of India to issue any appropriate Writ order or direction preferably a writ in the nature of Writ of Mandamus declaring the action of the 3rd respondent issuing the impugned proceedings to 4th respondent to issue pattadar pass books and title deeds in favour of 2nd respondent on the basis of a unrelated Will dated 09.02.1941 in respect of lands in Sy.Nos. 90/1, 90/3, 247, 437, 438, 462, 472, 70, 79/A,B, 91, 95/2, 95/1, 97, 171, 170, 169, 95/1, 173, 88/B, of Thallagokulapadu village, Krishnagiri Mandal, Kurnool District, and respondent Nos.3 and 4 causing threats of dispossession, as illegal, arbitrary, malafide, intentional, abuse of powers and opposed to principles of natural justice and consequently direct the respondents not to claim the property of the petitioners and to pass appropriate orders.

2. The issue in the writ petition hinges upon the Wills dated 09.02.1941 and 16.08.1978. According to the recitals in the Will dated 09.02.1941, the testator Gumpu Somireddy bequeathed some of his properties to his own brother-in-law i.e., Siva Reddy and some of his properties to his own brother Gumpu Krishna Reddy and 2/3rd of his properties to Sitarama Swamy Temple and 1/3rd properties to

Govindarajulu Swamy Temple situate at Bhadrachalam and Ac.10-00 of land to his wife Subbamma with a condition that his wife shall not alienate the said property till she clear the debts of Rs.10,000/- to third parties in the meanwhile she can lease and mortgage the said priority for her maintenance.

3. Basing on the recital in the Will dated 09.02.1941, the Joint Commissioner of Endowments through Rc.No. B2/3119/2010 dated 01.10.2014 had addressed a letter to the 4th respondent-Tahsildar requesting to issue Pattadar Pass Books so as to protect the following properties of land in Sy.Nos. 90/1, 90/3, 247, 437, 438, 462, 472, 70, 79/A,B, 91, 95/2, 95/1, 97, 171, 170, 169, 95/1, 173, 88/B being encroached upon which was bequeathed by one Gumpu Somireddy resident of Tallagokulapadu, Krishnagiri Mandal, Kurnool District to Sri Sitaramachandra Swamy Bhadrachalam Mandal of Khammam District.

4. The said proceedings were challenged in the present writ petition by these writ petitioners who are children of B.Narayana Reddy who is nephew or nieces of Subbama who is the wife of Gumpu Somireddy on grounds that Will dated 09.02.1941 did not mention the details of all the movable and immovable properties and there is no reference in the Will what is to be constructed and no

temple was constructed or existence as on the day and the properties were belong to Subbamma and the petitioner's grandfather along with one Kapa Rama Laxmamma has been created and established the Govinda Ramaswamy Mutt at Bhadrahalam and performing rituals to the Govinda Ramaswamy in the Mutt. The villagers who are antagonist to the petitioners have provided wrong information thus the Joint Commissioner of Endowments through proceedings dated 01.10.2014 had addressed a letter to the 4th respondent-Tahsildar requesting to issue Pattadar Pass Books. The petitioners are being the lawful owners enjoining their rights and the action of the respondents in threatening the petitioners to dispossess is questioned in the present writ petition.

5. The respondent Nos. 2 and 3 jointly filed counter affidavit denying all the averments made in the affidavit filed in support of the writ petition reinforcing, reiterating the contents of the impugned proceedings that Gumpu Somi Reddy executed Will dated 09.02.1941 wherein he bequeathed the land in favour Govindarajulu Swamy Temple situated at Bhadrachalam pursuant to that Will the lands stand in the name of Govindarajulu Swamy Temple and the lands were handed over to the temple. Initially land admeasuring Ac.40-00 handed over to 2nd respondent-devastanam vide proceedings dated Rc.No.A5/1752 dated 08.09.1993 issued by the Assistant

Commissioner thereafter the same was approved by the Assistant Commissioner vide proceedings in D.Dis No.A5 /4665/97/Adm.dt. 30.07.1997 and the Devastanam, has granted lease hold right to the prospective bidders and the said proceedings clearly indicates that the writ petitioners have participated in the public auction. Subsequently, the 2nd respondent addressed a letter to the 4th respondent Tahsildar vide proceedings in Rc.No. B2/3119/2010 dated 01.10.2014 requesting to issue Pattadar Pass Books and the petitioners have not shown any title to the lands, therefore prayed to dismiss the writ petition.

6. A reply affidavit has been filed by the writ petitioners denying the counter averments *inter alia* it is contended that the grandfather of the petitioners Gumpu Somireddy and others including late Kapa Rama Lakshamamma were the disciples of Guru Govinda Swamy and considered as their Guru. Small idol of Guru Govinda Swamy was installed in the choultry which was constructed in the year 1926 and used to offer prayers and the choultry was constructed for shelter to the poor who visit Bhadrachalam till date it is in the management of Kapa Rama Lakshamamma family. Furthermore, stating that all the proceedings initiated by the respondents have been fabricated with the sole intention of taking over possession of the property, demonstrating that the respondents are acting illegally. Additionally,

certain proceedings involving third parties that were undertaken under Section 9 of A.P. Regulation 2 of 1970 have been filed to illustrate how the respondents are unlawfully attempting or trying to grab the private properties. And it is pertinent to state that the writ petitioners have filed a Will dated 16.08.1978 executed by Subbamma Wife Somi Reddy he who had himself executed a Will dated 09.02.1941.

7. Heard learned designated senior counsel Sri K.V.Bhanu Prasad, assisted by Sri K.Sai Sri Harsha, learned counsel for the petitioners, and learned designated senior counsel Sri Ravi Kondaveeti, assisted by Sri Munduru Eswar Brahmanand, learned counsel for 2nd and 3rd respondent temples, and learned Assistant Government Pleader for Endowments, for Respondent No.1.

8. Learned senior counsel Sri K.V. Bhanu Prasad strenuously argued that the details of the properties have not been mentioned specifically in the Will dated 09.02.1941 and draws the attention of this court to an inscription on a stone to explain that no such temple in the name of Sitaramachandra Swamy at Bhadrachalam only a Govinda Raju Temple which is established in 1927 by Kapa Rama Lakshmamma. Subbamma got the above said properties as Stridhana and she has adopted the grandfather of the petitioners, later she executed a Will dated 16.08.1978 in favour of writ

petitioners' father, who is none other than the niece of Subbamma and she bequeathed all her properties that was shown in the impugned proceedings with all particulars and details and read the interim order granted by the Court dated 27.12.2014 to explain that high handed action of the respondents, the Court has observed in the following: *In my opinion, the respondents cannot be permitted to straight away dispossess the petitioners front the subject property without following the due process of law on the basis of the proceedings dated 01.10.2014 issue by the third respondent. It is settled law that registered is not by itself an evidence and that it needs to be proved according to law by examining arrestees or persons acquainted with signatures/handwriting of the attestors. The contes of the registered Will also do not mention any survey number of the land belonging to the executant. Prima facie, therefore, the impugned proceedings cannot be the basis for dispossession of the petitioners*, therefore prayed to direct the respondents not to make any threat of dispossession.

9. Learned senior counsel Sri Ravi Kondaveeti appeared through virtual mode and argued that the remedy of the petitioners is under Section of 87 of The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short hereafter called as Act 30 of 1987) and read the entire provision of Section 87 of the Act

30 of 1987 and argued that the writ petitioners be directed to approach the Endowment Tribunal for the relief claimed in the writ petition as it requires evidence. Even for argument sake it was not argued by respondents it is not essential to give details of the property in the testamentary document.

10. After hearing both the learned designated senior counsel for petitioners and respondents, after giving my thoughtful consideration, the following exposition is given for disposal of the writ petition.

11. POINT FOR CONSIDERATION: Both the writ petitioners and the respondents are claiming the properties basing on the Wills dated 16.08.1978 and 09.02.1941 respectively. The primary contention of the writ petitioners is that there is no reference or particulars of immovable properties in the Will dated 09.02.1941. Answer to this contention is that even without spelling out the particulars of the estate, mere bequeathing of the entire estate, whatsoever and wheresoever it may be, in favour of one or more persons, is sufficient. See para 30 of the Judgment in ***G.S. Agarwal Vs State***[1]. The learned senior counsel for the petitioners further argues that the properties belonging to Subbamma are Stridhana property, and the petitioners' grandfather was adopted by Subbamma. Subbamma executed the

[1] 2019 SCC OnLine Del 9881

Will dated 16.08.1978 bequeathing all her properties to the father of the writ petitioners. The Will dated 16.08.1978 states that the testatrix inherited the property through her husband Gumpu Somireddy after his death and the said property is not Stridhana Property as argued. According to the respondents, the same property was bequeathed by Gumpu Somireddy to the temple as per the Will dated 09.02.1941. There is one significant feature in the recitals in the Will dated 16.08.1978, testatrix executed all the properties existing and the properties to be acquired in future. The petitioners who are relying on the Will dated 16.08.1978 have not filed the Will along with writ petition and it filed subsequently along with reply affidavit. Admittedly both the petitioners and respondents are claiming properties based on Will and disputed facts are involved.

12. A three judges of Apex Court in ***H. Venkatachala Iyengar Vs. B.N . Thimmajamma and others***[2], held that a Will has to be proved like any other document except that evidence tendered in proof of a will should additionally satisfy the requirement of Section 63 of the Succession Act, apart from the one under Section 68 of the Evidence Act."

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[2] AIR 1959 SC 443

13. The Apex Court after reviewing a long line of decisions in ***H. Venkatachala Iyengar v. B.N. Thimmajamma, & Others.(supra 2***) The Court, speaking through Justice Gajendragadkar., laid down in that case the following propositions :-

1. Stated generally, a will has to be proved like any other document, the test to be applied being the usual test of the satisfaction of the prudent mind in such matters. As in the ease of proof of other documents, so in the case of proof of wills, one cannot insist on proof with mathematical certainty.
2. Since Section 63 of the Succession Act requires a will to be attested, it cannot be used as evidence until, as required by Section 68 of the Evidence Act, one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive and subject to the process of the court and capable of giving evidence.
3. Unlike other documents, the Will speaks from the death of the testator and therefore the maker of the Will is never available for deposing as to the circumstances in which the Will came to be executed.

4 That suspicion cannot be removed by the mere assertion of the propounder that the Will bears the signature of the testator or that the testator was in a sound and disposing state of mind and memory at the time when the Will was made.

14. It is settled law when serious disputed questions of fact are involved require evidence, for determination thereof, examination of witnesses would be necessary and appreciation of evidence, is required, it may not be convenient for this Court to decide the dispute in a writ proceeding under Article 226 of the Constitution of India. Therefore, if it is so advised the parties may agitate their rights in any competent court having jurisdiction to establish their rights. However, the respondents are directed not to dispossess the petitioners without following the procedure as established by law.

15. Accordingly, the writ petition stands disposed of. No order as to costs.

As a sequel, interlocutory applications, if any, pending in this writ petition shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 25.11.2026
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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No. 40139 of 2014

Date: 25-11-2026

Harin