

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 13040 of 2005

Between:

- 1 Smt.Pochana Mangammagari Jaya Lakshmi, W/o.Krishna Reddy,
R/o.Kottala Village, Rajupalem Mandal, Kadapa district.
- 2 Smt.Pochana Mangammagari Jaya Lakshmi, W/o.Venkatram Reddy,
R/o.Kottala Village, Rajupalem Mandal, Kadapa district.
- 3 Smt.Mukkamalla Sumalatha, W/o.Jagdeeswara Reddy,
R/o.Kottala Village, Rajupalem Mandal, Kadapa district.
- 4 Sri.Pochana Mangammagari Krishna Reddy, S/o.Konda Reddy,
R/o.Kottala Village, Rajupalem Mandal, Kadapa district.

..... PETITIONERS

AND

- 1 The Manager, Group Temples, Proddutur kept in full additional charge of Sri
Chennakesava , Anjaneya & Eswara,
Swamy Temples, Kul;uru Village, Rajupalem Mandal, Kadapa district.
- 2 Sri.P.Narasimha Reddy, S/o.Konda Reddy
Founder Trustee of Sri Chennakesava, Anjaneya & Eswara Swamy Temple,
Kulur(V), Rajupalem (M), kadapa district.
- 3 The Assistant Commissioner of Endowments, kadapa, Kadapa district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly a writ in the nature of writ of certiorari calling for the records relating to the impugned proceedings issued by the 1st respondent in notice dt. 09-06-2005 contemplating to conduct public auction of the schedule mentioned lands on 20-06-2005 belonging to Sri Sri Chennakesava, Anjaneya and Eswara Swamy Tempes, Kuluru Village, Rajupalem Mandal, along with the lands belonging to the petitioners i.e., petitioner No.1 owns an extent of Acs.0-29 cents in Sy.No.354-1 and an extent of Acs.1-00 in Survey No.354/7 2nd petitioner owns an extent of Acs.0-30 cts. in Survey No.354-1 and an extent of Acs.1-00 in Sy.No.354/7, the 3rd petitioner owns an extent of Acs.0-86 cts,. in Sy.No.354/3 and the 4th petitioner owns an extent of Acs.0-58 cts. in Survey No.350/4 and 354/7, as bad , illegal, arbitrary and the petitioners herein pray that the same may be quashed and pass such other order or orders.

Counsel for the Petitioner: MR.M.VIDYASAGAR

Counsel for respondent No.1: V.Venugopala Rao

Counsel for the Respondent No.3: GP FOR ENDOWMENTS

The Court made the following :

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No.13040 of 2005

JUDGMENT:

Heard the counsel for the petitioner, Sri V.Venugopal counsel for the 1st and 2nd respondents and the Government Pleader for Endowments for respondent No.3 and with their consent this writ petition is disposed of at the stage of admission.

The petitioners herein, four in number, question the action of the Manager of Sri Chennakesava, Anjaneya and Eshwaraswamy Temples at Kuluru village, Rajupalem Mandal, Kadapa District in seeking to conduct auction of lands in Survey No.350 and 354 and in auctioning several extents of land including certain extent of land belonging to the petitioners herein, as arbitrary and illegal.

It is the case of the petitioners that they are the absolute owners and title-holders of certain extent of land in Survey No.350 and 354. They rely on the pattadar passbook and other title deeds issued by the revenue authorities to substantiate their contention that the said land was in possession of their family for several years. Their further case is that since these lands belong to them, the Manager of the first

respondent institution, should have undertaken the exercise of demarcating the same, if at all the temple has any title on the suit scheduled property.

When the writ petition came up for admission on 20-6-2005, this court passed the following order:

“When the matter is taken up for consideration, it is represented by the learned counsel for the petitioner as well as the learned standing counsel appearing for respondents No.1 and 2, that W.P.No.12801 of 2005 with an identical prayer was disposed of on 16th June, 2005, granting stay of finalization of the auction scheduled to be held today in respect of the lands belonging the petitioner herein, however, copy of the said order is not made available.

Post this matter on 27th June 2005 for admission. In the meanwhile, petitioners are permitted to submit an application under Section 87 of the Endowment Act, within a period of two weeks from today to the Dy. Commissioner of Endowments, in which event, the same shall be considered and appropriate orders be passed in accordance with law within a period of two months thereafter.

The auction proposed to be held today i.e., 20th June 2005 may go on, but the same shall not be finalized so far as the lands of the petitioner herein are concerned till orders are passed by the Dy. Commissioner of Endowments on the application filed by the petitioners”

When the matter is taken up for admission on 27-6-2005, Sri M.Vidyasagar, learned counsel appearing for the petitioners draws my attention to the order of this Court in W.P.No.12801 of 2005 dated 16-6-2005 and contends that if the auction is permitted to be proceeded with, the petitioners would be dispossessed of their lands and put to irreparable loss and hardship.

Sri V.Venugopala Rao, learned counsel appearing on behalf of the first respondent drawn my attention to Section 43(6) of the Endowments Act and also produced a copy of the extract of the register maintained there under. He submits that these lands actually belong to the temple and not the petitioners herein. He also refer to Section 87(6) of the Endowment Act in support of his contention that there is a presumption that the property belongs to the endowment and that the burden of proof in such cases would lie on the person who claims it to be otherwise.

I find substantial force in the said contention. Disputes regarding ownership and title are all the matter, which are not normally adjudicated in proceedings under Article

226 of the Constitution of India. The petitioners have an effective alternate remedy available, under Section 87 of the Endowment Act, to approach the Deputy Commissioner of Endowments and get their disputes adjudicated.

Sri M.Vidyasagar, learned counsel for the petitioners submits that he shall prefer an application to the Deputy Commissioner within two weeks from today invoking the jurisdiction of the Deputy Commissioner of Endowment under Section 87 of the Endowment Act. He further submits that in the interregnum, if his lands are leased out to third parties, the petitioners will be put to irreparable hardship.

This writ petition is disposed of recording the submission of Sri M.Vidyasagar, learned counsel for the petitioners that the petitioners shall submit their application under Section 87 of the Endowment Act, within two weeks from today, to the Deputy Commissioner of Endowments. The Deputy Commissioner of Endowment shall, after complying with the procedural requirement under Section 87 of the Endowment Act, pass appropriate orders thereon within a period of two months from the date of receipt of the application submitted on behalf of the petitioners.

While the auction proceedings shall go on, to the limited extent of land claimed by the petitioners in the present writ petition as belonging to them, the auction proceedings shall not be finalized till orders are passed by the Deputy Commissioner of Endowment on the application filed by the petitioners.

-6-2005

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To

1. The Assistant Commissioner of Endowments, kadapa, Kadapa District.
- 2 The Manager, Group Temples, Proddutur kept in full additional charge of Sri Chennakesava , Anjaneya & Eswara,
Swamy Temples, Kul;uru Village, Rajupalem Mandal, Kadapa district.
3. Deputy Commissioner of Endowments, Kadapa, Kadapa District.
4. Two C.Cs. to the G.P. for Endowments, High Court buildings, Hyderabad (OUT)
5. Two C.D copies