

**THE HON'BLE SRI JUSTICE D.S.R. VARMA  
AND  
THE HON'BLE SRI JUSTICE G. CHANDRAIAH  
WRIT APPEAL No.1630 of 2008**

**ORAL JUDGMENT:** (per the Hon'ble Sri Justice D.S.R.Varma)

Heard Sri CH. Dhanamjaya, learned counsel for the appellant as well as the learned Government Pleader for Endowments appearing for respondent Nos.1 to 3, Sri S.Subba Reddy, learned counsel appearing for respondent Nos.4 and 5, and also Sri C.B.Ram Mohan Reddy, learned counsel appearing for respondent No.6.

2. This writ appeal is directed against the order, dated 23-06-2008, passed by a learned Single Judge of this Court in W.P.No.10716 of 2008.

3. The genesis of the litigation in this appeal arose owing to the filing of writ petition by the sixth respondent herein regarding the appointment of hereditary trustees of Sri Raghunathji Temple as per the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 and in that connection O.A.No.19 of 2003 filed by respondent Nos.4 and 5 herein is pending on the file of the Deputy Commissioner of Endowments, Hyderabad, who is the second respondent herein. The further details are not necessary for adjudication of this appeal.

4. The grievance of the writ petitioner was that the counsel for some of the respondents in the writ petition has been appearing for the Deputy Commissioner of Endowments, Hyderabad and hence an apprehension was expressed that the Deputy Commissioner of Endowments, Hyderabad, may get biased.

5. Therefore, having regard to the facts and circumstances and also having regard to the consensus of all the parties, without going into the merits of the case, the learned Single Judge had simply passed order,

dated 23-06-2008, transferring O.A.No.19 of 2003 from the file of the Deputy Commissioner of Endowments, Hyderabad, to the file of the Deputy Commissioner of Endowments, Visakhapatnam, with a direction to make necessary enquiry and pass appropriate orders in accordance with law.

6. Now, in this appeal, the appellant contends that though he was a party in O.A.No.19 of 2003 and has substantial interest in the dispute, the writ petition was filed by the sixth respondent herein in collusion with respondent Nos.4 and 5 herein without adding him as a party and, therefore, the order passed by the learned Single Judge is liable to be set aside.

7. A perusal of the record would reveal that the appellant is the third respondent in O.A.No.19 of 2003 (which is re-numbered as O.A.No.78 of 2003 on the file of the Deputy Commissioner of Endowments, Visakhapatnam). It is his grievance that the learned Single Judge had passed orders without affording him any opportunity. This is the only ground on which the appellant has been challenging the impugned order of the learned Single Judge.

8. It is to be remembered that the order passed by the learned Single Judge, which is now impugned in the present appeal, had become final and the records were also forwarded to the file of Deputy Commissioner of Endowments, Visakhapatnam, and it appears that the contesting parties in the writ petition have already approached the Deputy Commissioner of Endowments, Visakhapatnam.

9. At this stage, if the present writ appeal is allowed, virtually, the same amounts to interfering with the orders of the learned Single Judge. No doubt, the appellant was not made a party in the writ petition. But, it is to be seen that the writ petition was filed only on the simple ground that the

matter being get biased on some technical grounds. Therefore, the learned Single Judge, in our considered view, had rightly transmitted the matter from the file of the Deputy Commissioner of Endowments, Hyderabad, to the file of the Deputy Commissioner of Endowments, Visakhapatnam.

10. It is brought to the notice of this Court by almost all the parties that the office of the Deputy Commissioner of Endowments, Visakhapatnam, is far away from Hyderabad and further that the Deputy Commissioner of Endowments, Hyderabad, who was holding the office at the relevant point of time, had been transferred and a new incumbent had taken charge of the same. Therefore, virtually the relief sought by the writ petitioner seeking transfer of the matter from the file of the Deputy Commissioner of Endowments, Hyderabad, to the file of the Deputy Commissioner of Endowments, Visakhapatnam, had become redundant.

11. In view of the above, we are of the view that any orders passed in the present appeal would amount to excavate a dead dispute, which is rather superfluous.

12. Therefore, having regard to the facts and circumstances, inasmuch as all the counsel, including the learned Government Pleader, have consented to have the O.A.No.19 of 2003 (re-numbered as O.A.No.78 of 2008 on the file of the Deputy Commissioner of Endowments, Visakhapatnam) transferred to another file which is located nearer to Hyderabad and in which event it would facilitate the disputing parties to have access to the office without much inconvenience, we feel it appropriate to modified the impugned order of the learned Single Judge as under:

“O.A.No.19 of 2003 (re-numbered as O.A.No.78 of 2008 on the file of the Deputy Commissioner of Endowments, Visakhapatnam) be withdrawn and transferred to the file of

the Deputy Commissioner of Endowments, Warangal, in the interest of justice.”

13. Since the main dispute has been pending for a long time, we feel it expedient to direct the Deputy Commissioner of Endowments, Warangal, to dispose of O.A.No.19 of 2003 (re-numbered as O.A.No.78 of 2008 on the file of the Deputy Commissioner of Endowments, Visakhapatnam) as expeditiously as possible on priority basis, preferably within a period of eight weeks from the date of receipt of the records from the file of the Deputy Commissioner of Endowments, Visakhapatnam, after giving due opportunity to all the parties.

14. With the above observations and directions, the writ appeal is disposed of, at the stage of admission. There shall be no order as to costs.

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JUSTICE D.S.R.VARMA

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JUSTICE G.CHANDRAIAH

28-11-2008.  
Msr.

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