

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

WRIT PETITION No.24561 of 2021

ORDER:

The petitioner states that he is a member of the family of the founder of a temple known as "Sri Uma Maheswara Swamy Temple, CAIM High School Road, Nellore District. According to the petitioner, the temple was constructed by late Sri Roy Singh. After his demise, his son late R.Dharma Singh had managed the temple. After the demise of Sri R.Dharma Singh, his sons late Sri D.Chenchu Singh and D.Subbu Singh were in management of the temple. Late Sri D.Subbu Singh had four sons and the petitioner was one of the sons of the late Sri D.Subbu Singh. Upon the demise of D.Subbu Singh, one of his sons namely S.Garuda Singh filed O.A.No.12 of 2007 which was allowed by the 3rd respondent on 26.07.2008 on the basis of the no objection given by the other members of the family. Upon the demise of S.Garuda Singh on 24.11.2020, the petitioner is said to have filed O.A.No.135 of 2021 before the A.P.Endowments Tribunal to declare him as one of the founder family members and the same is pending. This application is said to have been filed on account of the presence of the other members of the founder family and to cut-short any future dispute.

2. The petitioner states that at that stage, the 5th respondent herein, who is the son of late S.Garuda Singh had filed an application under Section 17 of the A.P. Charitable Hindu Religious Institutions and Endowments Act, 1987 (for

short, 'the Act, 1987') before the 2nd respondent for being recognized as a member of the founder family and the same was allowed without any further enquiry, by way of proceedings dated 06.10.2021. These proceedings are challenged before this Court on the ground that the said proceedings had been issued on the basis of No Objection Certificate, issued by all the members of the family on 22.04.2004, in relation to the recognition of S.Garuda Singh as the member of the founder family.

3. Sri Y.Nagi Reddy, learned counsel, appearing for the 5th respondent submits that the 5th respondent has already been administered the oath of office on 10.10.2021.

4. Heard Sri D.V.Sasidhar, learned counsel for the petitioner, the learned Government Pleader for respondents 1 to 4 and Sri Y.Nagi Reddy, learned counsel for respondent No.5.

5. There is no dispute that both the petitioner and the 5th respondent are descendants of late Sri Roy Singh, who is the founder of the temple. In such circumstances, both the petitioner and the 5th respondent would be entitled to be recognized as members of the founder family as they are all descendants in the agnatic line from late Sri Roy Singh.

6. As far as the formal process of recognition of members of the founder family is concerned, it is now settled law that where there is no dispute about the fact that an applicant is a member of the founder family, the said recognition can be given by the competent authority who would

be the authority, competent to appoint the Board of Trustee for such an institution. It is only where there is a dispute as to whether an applicant is a member of the founder family or not that the said dispute has to be referred to the A.P.Endowments Tribunal under Section 87 of the Act, 1987.

7. In the present case, since there is no dispute, the appropriate method would have been for the petitioner to approach the 2nd respondent, who would be the competent authority in the present case, for being recognized as a member of the founder family of Sri Uma Maheswara Swamy Temple, CAIM High School Road, Nellore District. In the circumstances, the recognition of the 5th respondent cannot be faulted nor would that mean that the petitioner cannot be recognized as a member of the founder family.

8. Sri D.V.Sasidhar, learned counsel for the petitioner would submit that the petitioner has also made a representation dated 24.11.2021 to the 2nd respondent for being recognized and declared as member of the founder family.

9. In these circumstances, the writ petition is disposed of without disturbing the status of the 5th respondent as a member of the founder family and with a further direction to the 2nd respondent to consider and pass orders on the representation of the petitioner dated 24.11.2021 for being recognized as a member of the founder family of Sri Uma Maheswara Swamy Temple, within a period of two months from the date of receipt of this order. This application shall be

considered without taking into consideration the pending is allowed before the Endowments Tribunal. There shall be no order as to costs.

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

R. RAGHUNANDAN RAO, J.

30.11.2021

RJS

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