



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI



MONDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

CIVIL MISCELLANEOUS APPEAL NO: 496,497,498,499,506,507,508,509
OF 2024 and 319 of 2025

CIVIL MISCELLANEOUS APPEAL NO: 496 OF 2024

Appeal Under Section 84(2) of the APCHRI and Endowments Act, 1987,
the Order and Decree passed by A.P Endowments Tribunal, Pedakakani in
O.A No.562 of 2017 dated 31.07.2023.

Between:

1. Sri Bheemeswara Swamy Temple, Gudivada, Krishna District, Rep. by
it's Executive Officer.
2. Sri Venu Gopala Swamy Temple, Gudivada, Krishna District, Rep. by
it's Executive Officer.

...Appellants

AND

1. Kodali Vindhyanani, W/o. Arjuna Rao, Age not,known, R/o. D.No. 10-
154, 2nd Line, Rajendra Nagar, Gudivada, Krishna District.
2. The Assistant Commissioner, Endowments Department, Vijayawada,
Krishna District

...Respondents

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Decree and Order Dt.31.07.2023 in O.A No. 562 of 2017 on the file of A.P Endowments Tribunal, Amaravati at Pedakakani.

Counsel for the Petitioners: M/s. PULIPATI RADHIKA

Counsel for the Respondents: SRI. V V N NARASIMHAM

APHC010088002024



CIVIL MISCELLANEOUS APPEAL NO: 497 OF 2024

Appeal Under Section 84 (2) of the APCHRI And Endowments Act, 1987, the Order and Decree passed by A.P Endowments Tribunal, Pedakakani in O.A No.582 of 2017 dated 31.07.2023.

Between:

1. Sri Bheemeswara Swamy Temple, Gudivada, Krishna District, Rep. by its Executive Officer.
2. Sri Venu Gopala Swamy Temple, Gudivada, Krishna District, Rep. by its Executive Officer.

...Petitioners

AND

1. Talluri Lakshmana Rao, (Died)
2. Talluri Lakshmi Venkata Satya Suresh, S/o. Late Lakshmana Rao, Age not known, R/o. D.No. 8/312, 6th lane, Rajendra Nagar, Gudivada Mandal, Krishna District.

3. Battula Uma Vani, W/o. Satyanarayana, Aged 63 years, R/o. Hyderabad.
4. Boggavarapu Indira, W/o.Prasad, Aged about 61 Years, R/o. D.No.8/312, 5th Lane, Rajendra Nagar, Gudivada Mandal, Krishna District.
5. The Assistant Commissioner, Endowments Department, Vijayawada, Krishna District

...Respondents

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Decree and Order Dt.31.07.2023 in O.A No. 582 of 2017 on the file of A.P Endowments Tribunal, Amaravati at Pedakakani.

Counsel for the Petitioners: M/s. PULIPATI RADHIKA

Counsel for the Respondent No.1 : Sri. V V N NARASIMHAM

APHC010088032024



CIVIL MISCELLANEOUS APPEAL NO: 498 OF 2024

Appeal Under Section 84(2) of the APCHRI and Endowments Act, 1987, the Order and Decree passed by A.P Endowments Tribunal, Pedakakani in O.A No.576 of 2017 dated 31.07.2023.

Between:

1. Sri Bheemeswara Swamy Temple, Gudivada, Krishna District, Rep by its Executive Officer.

2. Sri Venu Gopala Swamy Temple, Gudivada, Krishna District, Rep. by its Executive Officer.

...Appellants

AND

1. Talluri Lakshmi Venkata Satya Suresh Kumar, S/o. Lakshmana Rao, Age not known, R/o. D.No. 2-26, Polukonda Village, Nandiwada Mandal, Krishna District.
2. The Assistant Commissioner, Endowments Department, Vijayawada, Krishna District

...Respondents

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Order and Decree Dt.31.07.2023 in O.A No. 576 of 2017 passed by the A.P Endowments Tribunal, Amaravati at Pedakakani.

Counsel for the Petitioners: M/s. PULIPATI RADHIKA

Counsel for the Respondents: SRI. V V N NARASIMHAM

APHC010140412024



CIVIL MISCELLANEOUS APPEAL NO: 499 OF 2024

Appeal Under Section 84(2) of the APCHRI and Endowments Act, 1987, the Order and Decree passed by A.P Endowments Tribunal, Pedakakani in O.A No.585 of 2017 dated 31.07.2023.

Between:

1. Sri Bheemeswara Swamy Temple, Gudivada, Krishna District, Rep. by its Executive Officer.
2. Sri Venu Gopala Swamy Temple, , Gudivada, Krishna District, Rep. by its Executive Officer.

...Petitioners

AND

1. Talluri Lakshmana Rao, (Died)
2. Talluri Lakshmi Venkata Satya Suresh, S/o. Late Lakshmana Rao, Age not known, R/o. D.No. 8/312, 6th lane, Rajendra Nagar, Gudivada Mandal, Krishna District.
3. Battula Uma Vani, W/o. Satyanarayana, Aged 63 years, R/o. Hyderabad.
4. Boggavarapu Indira, W/o.Prasad, Aged about 61 Years, R/o. D.No.8/312, 5th Lane, Rajendra Nagar, Gudivada Mandal, Krishna District.
5. The Assistant Commissioner, Endowments Department, Vijayawada, Krishna District

...Respondents

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Decree and Order Dt.31.07.2023 in O.A No. 585 of 2017 on the file of A.P Endowments Tribunal, Amaravati at Pedakakani.

Counsel for the Petitioners: M/s. PULIPATI RADHIKA

Counsel for the Respondents: SRI. V V N NARASIMHAM



CIVIL MISCELLANEOUS APPEAL NO: 506 OF 2024

Appeal Under Section 84(2) of the APCHRI and Endowments Act, 1987, the Order and Decree passed by A.P Endowments Tribunal, Pedakakani in O.A No.581 of 2017 dated 31.07.2023.

Between:

1. Sri Bheemeswara Swamy Temple, Gudivada, Krishna District, Rep. by its Executive Officer.
2. Sri Venu Gopala Swamy Temple, Gudivada, Krishna District, Rep. by its Executive Officer.

...Petitioners

AND

1. Yarlagadda Nagamani, W/o. Govardhan Rao, Age not known, R/o. D.No. 2-198/2, Dronakulavari Street, Gudivada, Krishna District.
2. The Assistant Commissioner, Endowments Department, Vijayawada, Krishna District .

...Respondents

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Decree and Order Dt.31.07.2023 in O.A No. 581 of 2017 on the file of A.P Endowments Tribunal, Amaravati at Pedakakani

Counsel for the Petitioners: M/s. PULIPATI RADHIKA

Counsel for the Respondents: SRI. V V N NARASIMHAM

APHC010088022024



CIVIL MISCELLANEOUS APPEAL NO: 507 OF 2024

Appeal Under Section 84(2) of the APCHRI and Endowments Act, 1987, the Order and Decree passed by A.P Endowments Tribunal, Pedakakani in O.A No.568 of 2017 dated 31.07.2023.

Between:

1. Sri Bheemeswara Swamy Temple, Gudivada, Krishna District, Rep. by it's Executive Officer.
2. Sri Venu Gopala Swamy Temple, Gudivada, Krishna District, Rep. by it's Executive Officer

...Petitioners

AND

1. Kodali Sri Venkateswara Rao, S/o. Aijuna Rao, Aged about 52 Years, R/o. D.No. 10-154, 2nd Line, Rajendra Nagar, Gudivada, Krishna District.
2. The Assistant Commissioner, Endowments Department, Vijayawada, Krishna District

...Respondents

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to

suspend the Decree and Order Dt.31.07.2023 in O.A No. 568 of 2017 on the file of A.P Endowments Tribunal, Amaravati at Pedakakani.

Counsel for the Petitioners: M/s. PULIPATI RADHIKA

Counsel for the Respondents: SRI. V V N NARASIMHAM

APHC010088042024



CIVIL MISCELLANEOUS APPEAL NO: 508 OF 2024

Appeal Under Section 84(2) of the APCHRI and Endowments Act, 1987, the Order and Decree passed by A.P Endowments Tribunal, Pedakakani in O.A No.569 of 2017 dated 31.07.2023.

Between:

1. Sri Bheemeswara Swamy Temple, Gudivada, Krishna District, Rep. by its Executive Officer.
2. Sri Venu Gopala Swamy Temple, Gudivada, Krishna District, Rep. by its Executive Officer.

...Appellants

AND

1. Kodali Nageswara Rao, S/o. Arjuna Rao, Aged not known, R/o. D.No. 10-154, 2nd Line, Rajendra Nagar, Gudivada, Krishna District.
2. The Assistant Commissioner, Endowments Department, Vijayawada, Krishna District

...Respondents

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to

suspend the Order and Decree Dt.31.07.2023 in O.A No. 569 of 2017 the file of A.P Endowments Tribunal, Amaravati at Pedakakani.

Counsel for the Petitioners: M/s. PULIPATI RADHIKA

Counsel for the Respondents: SRI. V V N NARASIMHAM

APHC010088042024



CIVIL MISCELLANEOUS APPEAL NO: 509 OF 2024

Appeal Under Section 84(2) of the APCHRI and Endowments Act, 1987, the Order and Decree passed by A.P Endowments Tribunal, Pedakakani in O.A No.583 of 2017 dated 31.07.2023.

Between:

1. Sri Bheemeswara Swamy Temple, Gudivada, Krishna District, Rep. by it's Executive Officer.
2. Sri Venu Gopala Swamy Temple, Gudivada, Krishna District, Rep. by it's Executive Officer.

...Petitioners

AND

1. Donepudi Aruna, W/o. Nageswara Rao, Age not known, R/o. D.No. 10-148/A, Rajendra Nagar, Near Narayana School, Gudivada, Krishna District.
2. The Assistant Commissioner, Endowments Department, Vijayawada, Krishna District

...Respondents

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Decree and Order Dt.31.07.2023 in O.A No. 583 of 2017 on the file of A.P Endowments Tribunal, Amaravati at Pedakakani.

Counsel for the Petitioners: M/s. PULIPATI RADHIKA

Counsel for the Respondents: SRI. ALAPATI VIVEKANANDA

APHC010226312025



CIVIL MISCELLANEOUS APPEAL NO: 319 OF 2025

Appeal Under Section 84(2) of the APCHRI and Endowments Act, 1987 the Decree and Order passed in O.A No. 2753 of 2010 (Old O.A No. III of 2010) dt.27.01.2025 passed by the A.P Endowments Tribunal Amaravathi at Pedakakani.

Between:

Sri Chudukudutamma Charities, Eluru Taluq and Mandal, Powerpet, Eluru District, Rep by its Executive Officer.

...Petitioner

AND

Chekuri Gopala Krishna Appala Raju, S/o. Suryanarayana Raju, Age 55 years, D.NO.22C-1-48, Appala Raju Military Hotel, GNT Road, Powerpet, Eluru, Eluru District.

...Respondent

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to dispense with filing of the certified/original copy of the Decree and Order passed in O.A No. 2753 of 2010 (Old O.A No. III of 2010), dt.27.01.2025 by the A.P Endowments Tribunal, Amaravathi at Pedakakani and Xerox copy of the Decree and Order passed in O.A No. 2753 of 2010 (Old O.A No. III of 2010), dt.27.01.2025 by the A.P Endowments Tribunal, Amaravathi at Pedakakani.

Counsel for the Petitioner: M/s. PULIPATI RADHIKA

Counsel for the Respondent : SRI. A RADHAKRISHNA

The Court made the following COMMON order:



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

[3506]

MONDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN

CIVIL MISCELLANEOUS APPEAL Nos: 496, 497, 498, 499, 506,
507, 508, 509 of 2024 and 319 of 2025

CIVIL MISCELLANEOUS APPEAL NO: 496/2024

Between:

1. SRI BHEEMESWARA SWAMY TEMPLE, GUDIVADA,
KRISHNA DISTRICT, REP BY IT'S EXECUTIVE OFFICER.
2. SRI VENU GOPALA SWAMY TEMPLE, GUDIVADA,
KRISHNA DISTRICT, REP BY IT'S EXECUTIVE OFFICER.

...APPELLANT(S)

AND

1. KODALI VINDHYARANI, W/6. ARJUNA RAO, AGE
NOT KNOWN, R/O. D.NO. 10-154, 2ND LINE, RAJENDRA
NAGAR, GUDIVADA, KRISHNA DISTRICT.
2. THE ASSISTANT COMMISSIONER, ENDOWMENTS
DEPARTMENT, VIJAYAWADA, KRISHNA DISTRICT

...RESPONDENT(S):

Appeal Under Section _____ against orders pleased to allow the
Appeal by setting aside the Order and Decree passed by A.P
Endowments Tribunal, Pedakakani in O.A No.562 of 2017 dated
31.07.2023 and pass

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the
circumstances stated in the affidavit filed in support of the petition,

the High Court may be pleased to condone the delay of (114) days in filing the C.M.A. aggrieved by the Order and Decree Dt.31.07.2023 in O.A No. 562 of 2017 passed by the Learned A.P Endowments Tribunal, Amaravati at Pedakakani and to receive the appeal on file in the interests of justice and to pass

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of (120) days in representing the appeal CMA No.496 of 2024 and to pass

IA NO: 3 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Decree and Order Dt.31.07.2023 in O.A No. 562 of 2017 on the file of A.P Endowments Tribunal, Amaravati at Pedakakani and pass

Counsel for the Appellant(S):

1.PULIPATI RADHIKA

Counsel for the Respondent(S):

1.V V N NARASIMHAM

THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN
CIVIL MISCELLANEOUS APPEAL Nos:496, 497, 498, 499, 506,
507, 508, 509 of 2024 and 319 of 2025

The Court made the following common Judgment:

In all these appeals, the orders passed by the Andhra Pradesh Endowments Tribunal are in challenge. Hence, this Court deems it fit to dispose of all these cases by way of common order.

2. The appellants herein are Temples-Institutions. Initially, proceedings were instituted by the Assistant Commissioner, along with respective Institutions, under Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act 30 of 1987) (hereinafter for short referred to as 'the Act') against the contesting respondents herein, for eviction and also damages for unauthorized use and occupation of respective properties. The said proceedings came to be contested and ultimately, the Tribunal has passed final orders dismissing the same. Assailing the aforesaid dismissal orders, present appeals are preferred under Section 84(2) of the Act. These appeals are preferred along with applications for condoning the delay in both presentation and re-presentation. After issuance of notices, the contesting respondents appeared and raised objection on maintainability of the appeals.

3. Heard Smt P. Radhika, learned counsel for appellants, Sri V. Venu Gopal, learned Senior Counsel & Sri A. Radha Krishna, learned counsel, appearing on behalf of respondents and learned Government Pleader for appeals for respondent-Assistant Commissioner.

4. As seen from the record, in all cases, original applications were preferred by the appellants along with the jurisdictional Assistant Commissioner of the concerned temples under Section 83 of the Act and the same came to be dismissed. Assailing the respective dismissal orders, present appeals are preferred under Section 84(2) of the Act. For better appreciation of the issue, it is apt to refer following provisions:

Section 83. Encroachment by persons on land or building belonging to charitable or religious institution or endowment and the eviction of encroachers:- (1) Where the Assistant Commissioner having jurisdiction, either *suomotu* or upon a complaint made by the trustee has reason to believe that any person has encroached upon (hereafter in this Chapter referred to as 'encroacher') any land, building, tank, well, spring or water-course or any space belonging to the institution or endowment, wherever situated or deemed as an encroacher under any of the provisions of this Act, the Assistant Commissioner shall report the fact together with relevant particulars to the 3 [Endowments Tribunal] having jurisdiction over the division in which the institution or endowment is situated.

Explanation:- For the purpose of this Chapter the expression 'encroacher' shall mean any person who unauthorisedly occupy any land or building or space and deemed to include any person who is in occupation of the land or building or space without the approval of the competent authority sanctioning lease or mortgage, or licence and also a person who continues to remain in the land or building or space after the expiry or termination or

cancellation of the lease, mortgage or licence in respect thereof granted to him or it.

(2) Where, on a perusal of the report received by him under sub-section (1), the [Endowments Tribunal] finds that there is a *prima facie* case of encroachment, [it] shall cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling on him to show cause before a certain date why an order requiring him to remove the encroachment before the date specified in the notice should not be made. A copy of the notice shall also be sent to the trustee of the institution or endowment concerned.

(3) The notice referred to in sub-section (2) shall be served in such manner as may be prescribed.

(4) Whereafter considering the objections, if any, of the encroacher received during the period specified in the notice referred to in sub-section (2) and after conducting such enquiry as may be prescribed, the [Endowments Tribunal] is satisfied that there has been an encroachment, [it] may, by order, require, the encroacher to remove the encroachment and deliver possession of the land or, building or space encroached upon to the trustee before the date specified in such order.

(5) The order of the [Endowments Tribunal] under sub-section (4) shall be in writing and shall contain the grounds on which he has passed the order.

(6) During the pendency of the proceedings, the [Endowments Tribunal] shall order the encroacher to deposit such amount as may be specified by [it] in consideration of the use and occupation of the properties in question in the manner prescribed.

Section 84. Mode of eviction on failure of removal of the encroachment as directed by the Endowments Tribunal - (1) Where within the period specified in the order under sub-section (4) of section 83, the encroacher has not removed the encroachment and has not vacated the land, building or space, the Assistant Commissioner having jurisdiction over the sub-division may remove the encroachment and obtain possession of the land, building or space, encroached upon, taking such police assistance as may be necessary. Any Police Officer whose help is required for this purpose shall be required to render the necessary help to the Assistant Commissioner.

(2) Nothing in sub-section (1) shall prevent any person aggrieved by order of the Endowments Tribunal under

sub-section (4) of section 83 from preferring an appeal before the High Court to establish that the Charitable or religious Institution or Endowment has no title to the land, building or space:

Provided that no appeal shall be preferred after expiry of ninety days from the date of receipt of the order under sub-section (4) of section 83:

Provided further that no such appeal shall be preferred by a person who is let into the possession of the land, building or space, or who is a lessee, licensee or mortgagee, of the institution or endowment.

Section 91 Revision: The High Court may call for the record of any case-

- (i) which has been decided by a court and in which no appeal lies thereto;
- (ii) which has been decided by the District Court in an appeal under section 88;
- (iii) which has been decided by the Government in an appeal under section 90; or
- (iv) which has been decided by the Government under sub-section (1) of section 28.8
- (v) Which has been decided by the Endowment Tribunal under Section 83(6) of the Act.

If such Court or the Government [or Endowments Tribunal] appears, –

(a) to have exercised a jurisdiction not vested in it or them by law;

(b) to have failed to exercise a jurisdiction so vested; or

(c) to have acted in the exercise of its or their jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit.

[Note: Inserted by Act No.36 of 2023, w.e.f.26.06.2023]

Rule 26(b)(v) of the Andhra Pradesh Charitable and Hindu Religious Institutions And Endowments Tribunal Rules, 2010.

26. Proceeding before the Tribunal:

(b) Notwithstanding anything in these Rules and in any other Rules-

(v) The order of the Endowments Tribunal passed under Section 83 is final unless a revision is maintained before the High Court within thirty days from the date of the order.

5. The principal Act has later been amended by Act No.36 of 2023 with effect from 26.06.2023, by which Section 83 came to be substituted with new scheme and Sections 84 to 86 came to be omitted. Likewise, Section 91(v) came to be inserted.

6. The original unamended Section 83 of the Act provides that the jurisdictional Assistant Commissioner make a complaint before the Tribunal for declaration of any person to be an encroacher and seek eviction, besides claiming other damages. The Tribunal, in turn, was supposed to decide the matter in accordance with the procedure set out therein and pass final orders under Sub Section (5).

7. Section 84 provides mode of eviction on failure of removal of encroachments as directed by the Tribunal. Sub Section (1) thereto empowers the Assistant Commissioner to seek police assistance in case the encroacher does not remove the encroachments and vacate the subject property. However, Sub Section (2) of Section 84 provides for an appeal against the orders of Endowments Tribunal under Section 83(4) of the Act before this Court, in case the person aggrieved intends to establish that the Institutions failed to have proper title to the subject property. The second proviso also provides that only such of those persons who dispute the title of

the Institutions alone have right of appeal, but not for those who were in possession of the subject property on the basis as lessee, licensee, mortgagee of the Institutions.

8. Section 91 of the Act confers revisional jurisdiction on this Court in certain scenarios. One such scenario being that where no appeal has been provided against the orders of the Tribunal, revision lies before this Court. The expression used in Section 91(i) of the Act refers to decision made by the Court. This apparently was unamended provision, when even before the Tribunal came to be created and all endowment disputes were being adjudicated by Assistant Commissioner, appeals lie thereafter to the district Court.

9. Inline with the same, Rule 26 (b)(v) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Tribunal Rules, 2010 (hereinafter for short referred to 'Rules') provides revision to be filed before this Court against the order of Endowments Tribunal passed under Section 83, within a period of thirty days from the date of the order.

10. Reading of above provisions would clearly indicate that as against an order of dismissal of O.A. instituted by appellants under Section 83, no appeal is provided under the scheme of the Act. Section 84(2) of the Act provided for an appeal only to the aggrieved persons who have been ordered for eviction and still dispute the title of the Institutions. For the Institutions, who are unsuccessful before

the Tribunal, the only remedy provided is to prefer revision under Section 91(i) before this Court, as the Institutions cannot be left with no remedy.

11. Though the language employed under Section 91(i) of the Act refers to Court, in the context of subsequent legislative changes, an appeal has been bestowed to this Court, and district Court has been ousted from such jurisdiction. It has to be implied that against an order passed by the Tribunal, where there is no further appeal provided, the aggrieved party has to necessarily prefer revision as contemplated under Section 91 of the Act.

12. The Division Bench of this Court in W.P.Nos.7577 of 2008 and batch, dated 24.11.2022, while interpreting Sections 83 and 84 of the Act *vis-à-vis* the right of a pure encroacher to file appeal under Section 84(2), held that an appeal under Section 84(2) is maintainable only by person who disputes the title to the land as claimed by temple, and not for persons who merely are encroachers.

Paragraph Nos.8,9 and 10 of the said judgment read as under:

“...8. A conjoint reading of provisions contained in Section 83 and 84 of the Act, particularly sub-section (4) of Section 83 read with sub-section (2) of Section 84 would manifest two situations: Firstly, that an appeal can be preferred by any person aggrieved by the order of the Endowments Tribunal under sub-section (4) of Section 83 of the Act, to establish that the Charitable or religious Institution or Endowment has no title to the land, building or space; secondly, that a rank encroacher who is not asserting that the temple has no title to the land, cannot prefer an appeal. To maintain an appeal under Section 84(2) of the Act, an averment by the person

aggrieved that the temple or religious institution has no title to the land, building or space is pre-requisite.

9. In the first order passed by the learned single Judge in the year 2020 also, it is observed that a person who disputes the title of the temple can only prefer the Civil Miscellaneous Appeal before this Court, although, learned single Judge has added one more line, which is not provided in the Statute, that the person should also assert that he is the owner of the property. This is not the requirement of law in terms of Section 84 (2) of the Act. Be that as it may, the first order in C.M.A.(SR)No.26086 of 2020 also in principle agrees with the legal position that the person who disputes the title of the temple can only prefer an appeal and that the other set of persons, who are only encroachers are not provided any remedy under the Act.

10. Both the Judges have taken concurrent view on this issue that a pure encroacher is not provided any right of appeal under the Act and that such remedy of appeal is available only when the person aggrieved is objecting to the title of the endowment..."

13. Learned counsel for appellants has referred to judgment of this Court passed in ***The Executive Officer, Group Temples v. Sri Sakhiya Matt rep. by ByragiTulasabai and others***¹, while considering the aspect of maintainability of appeal before the district Court, though not in direct context, made observation of paragraph No.12 as follows:

"...Admittedly, under the earlier legislation, appeals were provided only to the District Court but not straight to the High Court. Having regard to the said controversy, it cannot be said that they have intended to take away the statutory power of right of appeal to this Court. A right of appeal necessarily has to be provided by a statute and cannot be implied under any circumstances. In the circumstances, it has to be held that the appeal, as has been filed and disposed of before the District Court, is not maintainable and necessarily, the respondent has to approach this Court alone. Further, it is to be noted that even under Section 91 of the Act, this Court is conferred

¹(2010) 08 AP CK 0027

with powers of revision only against the orders, where no appeal is provided, but not otherwise..."

14. There is no quarrel with respect to aforesaid proposition. As there is no appeal, as such, provided against the orders of dismissal under Section 83, the only remedy available would be to prefer revision under Section 91(i) of the Act read with Rule 26 (v) of the Rules.

15. Therefore, this Court is of the opinion that these appeals ought not to have been preferred under Section 84(2), which is available only for private parties, who dispute the title of the Institutions as held by the Division Bench (*supra*).

16. Upholding the objections raised by learned counsel for respondent No.1, this Court finds that these appeals are clearly not maintainable. However, since the institutions have been pursuing these appeals under mistaken impression, the period from the institution till the same are now decided is entitled to be claimed for exemption in terms of Section 14 of the Limitation Act, while preferring revision under Section 91(i) of the Act read with Rule 26 of the Rules.

17. Accordingly, these Appeals are dismissed along with applications for condoning the delay in both presentation and re-presentation, granting liberty to the appellants to prefer revision in accordance with provisions of the Act. There shall be no order as to costs.

18. The Registry is henceforth directed to ensure that any appeal preferred by the Institution against orders of dismissal under Section 83(4) of the Act shall be entertained only as a revision under Section 91(i) of the Act read with Rule 26 of the Rules, but not as civil miscellaneous appeal under Section 84(2) of the Act.

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

Sd/- E KAMESWARA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Andhra Pradesh Endowments Tribunal, Amaravathi at Pedakakani.
(with records)
2. The Assistant Commissioner, Endowments Department, Vijayawada,
Krishna District
3. The Registrar (Judicial), High Court of Andhra Pradesh at Nelapadu.
4. One CC to M/s. Pulipati Radhika Advocate [OPUC]
5. One CC to Sri. A. Radha Krishna, Advocate [OPUC]
6. One CC to M/s. Alapati Vivekananda, Advocate [OPUC]
7. One CC to Sri. V V N Narasimham Advocate [OPUC]
8. The V.R Section, Section Officer, High Court of Andhra Pradesh.
9. Two CD Copies

PR

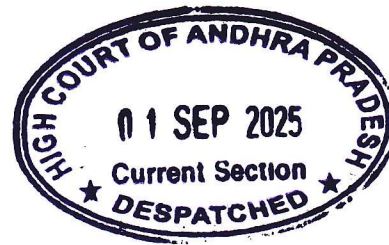
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HIGH COURT

DATED:04/08/2025

JUDGMENT

**CMA No's: 496,497,498,499,506,507,508,509 OF 2024
and 319 of 2025**



DISMISSING THE CMA'S