

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.18866 OF 2010

ORDER:

1. On 04.02.2026, since there was no representation on behalf of the petitioner, the matter was directed to be listed under the caption 'for dismissal' on 09.02.2026. On 09.02.2026, none appeared for the petitioner. Hence, this Court has no other option, except to decide the matter on merits.

2. Aggrieved by the order dated 12.05.2009 in O.A.No.114 of 2009 passed by the Deputy Commissioner, Endowments Department, Visakhapatnam, Respondent No.3 preferred this writ petition, questioning the correctness of the Order passed by the Deputy Commissioner. Respondent No.2 herein i.e. Sri Varaha Laxmi Narasimha Swamy Vari Devasthanam is the petitioner before the Tribunal, who filed O.A.No.114 of 2009 to initiate enquiry under Section 83(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act 30/87) [for short, "the Act"] against the respondents therein, for eviction from the petition schedule property.

3. The Assistant Commissioner, Endowments Department, Visakhapatnam, has submitted proposals informing that the petitioner and others are in unauthorized occupation of the petition schedule property belonging to the Temple and recommended to initiate eviction proceedings under Section 83 of Act 30 of 1987. Based on the pleadings before the Deputy Commissioner, the Deputy Commissioner held that the petitioner herein and others are encroachers of the petition schedule property within the meaning of Section 83 of Act 30 of 1987 and directed them to be evicted from the scheduled property.

4. The sole point that arises for consideration is whether the Order passed by the Deputy Commissioner is without jurisdiction?

5. The Deputy Commissioner initiated enquiry under Section 83(2) of the Act 30/87 against the respondent for eviction from the scheduled property based on the proposal made by Assistant Commissioner, Endowments Department, Visakhapatnam, informing that the petitioner herein and others have been in unauthorized occupation of the petition schedule property and recommended to initiate proceedings under section 83 of Act 30/87. The Deputy Commissioner passed an order dated

12.05.2010 holding that the petitioner herein and others are encroachers of the scheduled property within the meaning of Section 83 of Act 30/ 87 and directed them to be evicted from the scheduled property and vacate the scheduled property, and hand over the vacant possession to the petitioner/institution within 15 days from receipt of the Order.

6. G.O.Ms.No.837 dated 13.08.2009 issued by Revenue (Endowments Department), reads as under:

"In exercise of the powers conferred under section 162(1) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (Act 30 of 1987) the Government of Andhra Pradesh hereby constitute the A.P. Endowment Tribunal sitting at Hyderabad. The Tribunal shall have jurisdiction for the entire State of Andhra Pradesh for the determination of any disputes, question or the matter relating to a Charitable Institution, Dharmadayam, Religious Charity, Religious Endowments, Religious Institution or any Institution etc., as defined in the Act".

7. The said G.O. specifies that the Notification shall be published in the Extraordinary issue of the Andhra Pradesh Gazette, dated 20.08.2009. As seen from Section 87 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 is substituted by Act No.33 of 2007 w.e.f.

03.01.2008. Before the amendment to Section 87 of the Act, it reads as under:

“87. (1) The Deputy Commissioner having jurisdiction shall have the power, after giving notice in the prescribed manner to the person concerned, to enquire into and decide any dispute as to the question-

a) whether an institution or endowment is a charitable institution or endowment;

b) whether an institution or endowment is a religious institution or endowment;

c) whether any property is an endowment, and if so, whether it is a charitable endowment or a religious endowment;

d) whether any property is a specific endowment;

e) whether any person is entitled by custom or otherwise to any honour, emoluments or perquisites in any charitable or religious institution or endowment and what the established usage of such institution or endowment is in regard to any other matter;

f) whether any institution or endowment is wholly or partly of a secular or religious character and whether any property is given wholly or partly for secular or religious uses; or

g) where any property or money has been given for the support of an institution or endowment which is partly of a secular character and partly of religious character or the performance of any service or charity connected with such institution or endowment or the performance of a charity which is partly of a secular character and partly of a religious character or where any property or money given is appropriated partly to secular uses and partly to religious uses, as to what portion of such property or money shall be allocated to secular or religious uses.

(2) The Deputy Commissioner may, pending his decision under sub-section (1), pass such Order as he deems fit for the administration of the property or custody of the money belonging to the institution or endowment.

(3) Every decision or Order of the Deputy Commissioner on confirmation by the Commissioner under this section shall be published in the prescribed manner.

(4) The Deputy Commissioner may while recording his decision under sub-section (1) and pending implementation of such decision, pass such interim order as he may deems fit for safeguarding the interests of the institution or endowment and for preventing damage to or loss of or misappropriation or criminal TMR, J breach of trust in respect of the properties or moneys belonging to or in the possession of the institution or endowment.

(5) Any decision or order of the Deputy Commissioner deciding whether an institution or endowment is not a public institution or endowment shall not take effect unless such decision or order is confirmed by an order of the Commissioner.

(6) The presumption in respect of matters covered by clauses (a), (b), (c), (d) and (e) in sub-section (f) is that the institution or the endowment is public one and that the burden of proof in all such cases shall lie on the person claiming the institution or the endowment to be private or the property or money to be other than that of a religious endowment or specific endowment as the case may be."

8. Section 87 of the Act is substituted by Act 33 of 2007, which reads as follows:

"87. Power of Endowments Tribunal to decide certain disputes and matters. - (1) The Endowments Tribunal having jurisdiction shall have the power, after giving notice in the

prescribed manner to the person concerned, to enquire into and decide any dispute as to the question___

(a) whether an institution or endowment is a charitable institution or endowment;

(b) whether an institution or endowment is a religious institution or endowment;

(c) whether any property is an endowment, and if so, whether it is a charitable endowment or a religious endowment;

(d) whether any property is a specific endowment;

(e) whether any person is entitled by custom or otherwise to any honor, 'emoluments or perquisites in any charitable or religious institution or endowment and what the established usage of such institution or endowment is in regard to any other matter;

(f) whether any institution or endowment is wholly or partly of a secular or religious character and whether any property is given wholly or partly for secular or religious uses; or

(g) where any property or money has been given for the support of an institution or endowment which is partly of a secular character and partly of a religious character or the performance of any service or charity connected with such institution or endowment or the performance of a charity which is partly of a secular character and partly of a religious character or where any property or money given is appropriated partly to secular uses and partly to religious uses, as to what portion of such property or money shall be allocated to secular or religious uses;

(h) Whether a person is a founder or a member of the family of the founder of an Institution or Endowment. (2) The Endowments Tribunal may, pending its decision under subsection (1), pass such Order as it deems fit for the administration of the property or custody of the money belonging to the institution or endowment. (3) The Endowments Tribunal may while recording its decision under subsection (1) and pending implementation of such decision, pass such interim Order as it may deem fit for safeguarding the interest of the institution or endowment and for preventing

damage to or loss or misappropriation or criminal breach of trust in respect of the properties or moneys belonging to or in the possession of the institution or endowment.

(4) The presumption in respect of matters covered by Clauses (a), (b), (c), (d) and (e) in sub-section (1) is that the institution or the endowment is a public one and that the burden of proof in all such cases shall lie on the person claiming the institution or the endowment to be private or the property or money to be other than that of a religious endowment or specific endowment, as the case may be.

(5) Notwithstanding anything contained in the above sub-sections, the Deputy Commissioner having jurisdiction shall continue to enquire into and decide the disputes referred to in sub-section (1) until the constitution of the Endowments Tribunal."

9. From the reading of the above provisions, it is explicit that by virtue of Section 87 of the Act, the Deputy Commissioner is empowered to decide certain disputes and matters, whereas, after the amendment to Section 87 of the Act, the Endowment Tribunal is constituted by virtue of G.O.Ms.No.837 Revenue (Endowments.I) Department dated 13.08.2009. Section 87(5) amendment shows that the Deputy Commissioner having jurisdiction shall continue to enquire into and decide the disputes referred to in Sub Section (1) until the constitution of the Endowments Tribunal. When the Endowments Tribunal is constituted, the Deputy Commissioner is not supposed to decide the disputes. The impugned Order passed by the Deputy Commissioner shows that the impugned Order dated

12.05.2010 was passed after the constitution of the Endowments Tribunal i.e. on 13.08.2009. A reading of the impugned Order does not indicate the reasons for passing the Order after the constitution of the Endowments Tribunal. This Court is of the considered view that the Deputy Commissioner is not empowered with the jurisdiction to decide the disputes after the constitution of the Endowments Tribunal. As such, without going into the merits of other contentions, the Order passed by the Deputy Commissioner is liable to be set aside.

10. For the reasons stated above, the writ petition is allowed by setting aside the impugned Order passed in O.A.No.114 of 2009 dated 12.05.2010 by the Deputy Commissioner, Endowments Department, Visakhapatnam. No costs.

11. Consequently, miscellaneous applications pending if any, shall stand dismissed.

JUSTICE VENKATESWARLU NIMMAGADDA

Date: 09.02.2026

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