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C.A.No. 6088 OF 1999
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6088 OF 1999

TALLA BAL REDDY ... APPELLANT

VERSUS

RAMRAJ S. RAO & ANR. ... RESPONDENTS

O R D E R

The appellant made an application under Section 45(3) read with Section 87(1) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for brevity, 'the Act') before the Deputy Commissioner of Endowments seeking deletion of the lands in question from the list of properties registered as endowed to Shri Ramalingeswara Swamy Temple in the endowments register of 1981 and to direct the Assistant commissioner of Endowments to withdraw the complaint lodged against him. The appellant claiming to be the protected tenant over the lands asserted that the said lands were not endowed properties and that those lands were erroneously recorded in the endowments register as endowed properties of the Temple. The appellant ..2/-

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filed a suit, O.S.No.193 of 1983, seeking declaration of his title to the lands in question and also for a permanent injunction restraining the defendants, including the Board Trustees of the Temple and the respondent No.2 herein, i.e., the Assistant commissioner of Endowments. He claimed ownership over the lands on the basis that he had perfected his title over the said lands by adverse possession. The said suit was dismissed by the trial court. However, in the judgment, it appears, certain observations were made that the appellant was a protected tenant over the lands in question. The appellant did not challenge any further the dismissal of the said suit. Long thereafter, he made an application under Section 45(3) read with Section 87(1) of the Act, as already mentioned above. The Deputy Commissioner dismissed his application holding that the question of protected tenancy could not be decided in the proceedings initiated under the Act and the appellant did not take steps for a number of years to get the lands deleted from the endowments register. In this view, the application filed by the appellant was dismissed. Aggrieved by the order of the Deputy Commissioner, the appellant filed appeal in the court of Principal District Judge, Rangareddy. The learned District Judge, finding no merit, dismissed it observing that no steps ..3/-

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had been taken by the appellant to set aside the entry in the register maintained under Section 38 of the repealed Act 17 of 1966 corresponding to Section 43 of the Act. The learned District Judge, dealing with the protected tenancy rights of the appellant, held that the question whether the appellant was protected tenant was beyond the scope of the inquiry under the provisions of the Act. The appellant pursued the matter further by filing revision petition before the High Court under Section 91 of the Act. The High Court, concurring with the findings recorded by the District Judge affirming the order made by the Deputy Commissioner, dismissed it

he revision petition. Hence this appeal.

The learned counsel for the appellant contended that the respondent No.2, i.e., the Assistant Commissioner of Endowments, in the written statement filed in the suit, admitted in clear terms that the appellant was the protected tenant over the lands in question; in view of this admission, the application filed by the appellant ought to have been allowed by the Deputy Commissioner. The District court as well as the High Court committed an error in not taking note of this vital piece of admission made by the 2nd respondent. He also argued that under Section 40 of the Andhra Pradesh

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(Telangana Area) Tenancy and Agricultural Lands Act, 1950 ('the A.P. Tenancy Act' for short), the rights of the protected tenant were heritable; the lands could not have been endowed affecting the rights of the appellant as a protected tenant.

On the other hand, the learned Senior counsel for the respondents made submissions in support of the impugned order. He stated that no fault can be found with the impugned order having regard to the clear legal position as stated in the impugned order.

We have considered the submissions made by the learned counsel for the parties. It is clear from what is stated in the order of the Deputy Commissioner as well as the District Judge that the Deputy Commissioner of Endowments was not a competent authority to decide the question of rights of protected tenancy of the appellant. It is not disputed that the lands in question were entered in the register of the endowments long back. The appellant sought for deletion of these lands from the register of endowments almost after 15 years, that too long after the dismissal of his suit and based on certain observations made in the suit that the appellant was a protected tenant. The Deputy Commissioner as

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well as the learned District Judge were right in holding that the question of protected tenancy rights could not be examined by the Deputy Commissioner under the provisions of the Act when there is specific forum created under the A.P. Tenancy Act. The High Court in the impugned order, while dismissing the revision petition, has made it clear that the dismissal of the revision petition will not preclude the appellant from agitating his rights as a protected tenant before the appropriate forum in accordance with law. As no ground was made out by the appellant to delete the lands from the register of endowments, the application was rightly dismissed by the Deputy Commissioner and the District Judge rightly affirmed it in appeal. The High Court for good reasons dismissed the revision petition. We do not find any good ground or valid reason to interfere with the impugned order. Consequently, the appeal is dismissed, but, with no order as to costs.

At this stage, the learned counsel for the appellant submits that it may be clarified that the dismissal of this appeal does not come in the way of the appellant agitating

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his rights as protected tenant before the appropriate forum. It is needless to say so that as in the impugned order, the High Court has already stated so.

.....J.

[SHIVARAJ V. PATIL]

New Delhi, [B.N. SRIKRISHNA]
September 30, 2004.
ITEM NO.107 COURT NO.6 SECTION XIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 6088 OF 1999

TALLA BAL REDDY APPELLANT (S)
VERSUS
RAMRAJ S. RAO & ANR. RESPONDENT(S)
(With office report)

Date: 30/09/2004 This Appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant(s) Mr. Ananga Bhattacharya, Adv.
Mr. P.S. Narasimha, Adv.
for Mr. V.G. Pragasam, Adv.

For Respondent(s) Mr. L. Nageshwara Rao, Sr. Adv.
Mr. R. Santhana Krishnan, Adv.
Mr. D. Mahesh Babu, Adv.
Ms. K. Radha Rani, Adv.
Mr. G. Sathish, Adv.
Mr. Jayanth Muthraj, Adv.

Ms. D. Bharathi Reddy, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel for appellant from 2.40 p.m. to 3.10 p.m. and learned counsel for the respondents for 10 minutes.
The appeal is dismissed with no order as to costs in terms of the signed order.

Sarita (Shelly Sengupta)
Court Master

(Signed order is placed on the file)