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C.A.No. 256 OF 1999

ITEM No.107

Court No. 9

SECTION IVA

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. 256 of 1999

C. Yathrappa & Ors.

...Appellant(s)

vs.

Commissioner for Religious & Charitable Endowments & Ors.

...Respondent(s)

(with office report)

Date: 10/12/2003 This/These matter(s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE S.B. SINHA

For Appellant (s)Mr. P R Ramasesh, Adv.

For Respondent (s)Mr. S N Bhat, Adv.

Mr. Ramesh Babu M R, Adv. (NP)

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

Heard counsel for the parties for 15 minutes.

The appeal is dismissed in terms of the signed order. No costs.

(D.P. WALIA) (JANKI BHATIA)
COURT MASTER COURT MASTER

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 256 OF 1999

C. Yathrappa & Ors.... Appellant(s)

vs.

Commissioner for Religious and Charitable
Endowments & Ors. ... Respondent(s)

O R D E R

Respondents Nos. 4 to 14 and others filed applications before the Land Tribunal, Bangalore for registration of occupancy rights in respect of various bits of land in Survey No. 33 measuring 16.20 acres situated at Hongasandra village, Bangalore. The property belonged to Dharmaray aswamy Temple, Ulsoorpet, Bangalore.

The Land Tribunal after conducting enquiry and hearing the parties passed orders rejecting the claim applications of the respondents on the ground that none of the respondents proved their entitlement to hold the temple land and to be registered as occupants.

One of the respondents filed Writ Petition No. 20284 of 1982 in the High Court of Karnataka challenging the said order of rejection of the applications for registration of occupancy rights. The petition was accepted on 24.1.1984 and the matter was remitted back to the Land Tribunal for a fresh decision. After a fresh inquiry, the Land Tribunal granted the occupancy rights to the majority of the tenants/respondents while rejecting the claims of a few others. This order was passed on 14.12.1992.

The Muzrai Assistant representing the temple filed W.P. No. 40824 of 1993 in the High Court challenging the order of the Land Tribunal. The appellants also filed W.P. No. 8455 of 1994 as public interest litigation praying for identical relief.

The High Court by the impugned order accepted the writ petition filed by the Muzrai Assistant of the temple and rejected the petition filed by the appellants herein as not being maintainable. It was observed :

"Thus it has been held that there is a conflict between the Government through Muzrai Department on one hand and various persons like Kadim tenants, permanent tenants and other tenants and other tenants and the devotees have no role to play. They have absolutely no right merely because they are devotees. In view of this settled principle, the writ petition is liable to be rejected straight-a-way as not maintainable, as the petitioner has no locus standi to challenge the order of the Land Tribunal under the guise of Public Interest Litigation. More so, the temple by Muzrai Department has also challenged the order of the Land Tribunal before this Court. Hence, Writ Petition No. 8455 of 1994 is liable to be dismissed on the ground of petitioners have no locus standi."

The petition filed by the Muzrai Assistant was disposed of in the following terms:

"Accordingly, the impugned order dated 14-12-1992 passed by the Land Tribunal, Bangalore, South Taluk, Bangalore, in LRF INA 422/79-80 is set aside. The matter is remitted to the Land Tribunal to consider the case afresh after giving opportunity to the claimants as well as the deity represented by the Muzrai Department to adduce evidence, if any, on their behalf to substantiate their case. The Tribunal shall consider the right of Papayya Reddy, the Panchasala Gut hedar, as to create sub-lease and also the claim of the sub-lessees for entitlement of grant of occupancy rights. Since the matter is pending for the last 18 years before one forum or the

other, the Land Tribunal is directed to dispose of the matter at the earliest and not later than 6 months from the date of receipt of this order."

Counsel appearing for the respondents states that after remand the Special Deputy Commissioner of Inams Abolition who is the constituted authority in place of the Land Tribunal under the amended provisions of law has granted occupancy rights to the respondents by an order dated 21.4.2001. Aggrieved against the said order, the Muzrai Assistant has filed W.P. No. 20198/2001 which is still pending.

We agree with the view taken by the High Court that the petition filed by the appellants in public interest could not be entertained as the concerned parties were already in litigation against the orders sought to be impugned by the appellants and the petition filed by the appellants was not maintainable.

For the aforesaid reasons, this appeal is dismissed. No costs.

.....J(ASHOK BHAN)

.....J

(S.B. SINHA)

New Delhi;

December 10, 2003.