



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

A.S.No.308 of 2021

Between:

Sri B.L.Narasimha Rao,
S/o.Subbarao, Hindu,
Aged about 70 years,
Occ:General Secretary
Sree Venkateswara Krishna Devaraya Welfare Trust,
R/o.D.No.27-24-19, Vijaya Gardens,
Eluru, West Godavari Distract.

... **Petitioner**

And

- \$ 1. Vatti Venkata Ranga Pardhasaradhi,
S/o.Pullayya, Hindu,
Aged about 90 years,
Occ:Chairman,
Sree Venkateswara Krishna Devaraya Welfare Trust,
R/o.D.No.4-3, Mall Mohammad Puram,
Pulla, Bhimadole Mandal,
West Godavari District.
2. Muthamsetti Krishna Rao,
Secretary,
Sree Venakteswara Krishna Devaraya Welfare Trust,
Dwaraka Tirumala,
D.No.230, Rd.No.10C, M.L.A & M.P.Colony,
Jubilee Hills, Hyderabad.
3. Maka Srinivasa Rao, Treasurer,
Sree Venkateswara Krishna Devaraya Welfare Trust,
Dwaraka Tirumala, D.No.4C-1-34,
Near Gas Godown, Opposite to Bus Stand,
Tadepalligudem.

... **Respondents**

Date of Judgment pronounced on : 05-10-2021

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

1. Whether Reporters of Local newspapers
May be allowed to see the judgments? : Yes/No
2. Whether the copies of judgment may be marked
to Law Reporters/Journals: : Yes/No
3. Whether the Lordship wishes to see the fair copy
Of the Judgment? : Yes/No

***IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI***** HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO****+ A.S.No.308 of 2021****% Dated: 05-10-2021****Between:**

Sri B.L.Narasimha Rao,
S/o.Subbarao, Hindu,
Aged about 70 years,
Occ:General Secretary
Sree Venkateswara Krishna Devaraya Welfare Trust,
R/o.D.No.27-24-19, Vijaya Gardens,
Eluru, West Godavari District.

... Petitioner

And

- \$ 1. Vatti Venkata Ranga Pardhasaradhi,
S/o.Pullayya, Hindu,
Aged about 90 years,
Occ:Chairman,
Sree Venkateswara Krishna Devaraya Welfare Trust,
R/o.D.No.4-3, Mall Mohammad Puram,
Pulla, Bhimadole Mandal,
West Godavari District.
2. Muthamsetti Krishna Rao,
Secretary,
Sree Venakteswara Krishna Devaraya Welfare Trust,
Dwaraka Tirumala,
D.No.230, Rd.No.10C, M.L.A & M.P.Colony,
Jubilee Hills, Hyderabad.
3. Maka Srinivasa Rao, Treasurer,
Sree Venkateswara Krishna Devaraya Welfare Trust,
Dwaraka Tirumala, D.No.4C-1-34,
Near Gas Godown, Opposite to Bus Stand,
Tadepalligudem.

... Respondents

! Counsel for Appellant : Ganga Kumar Chakravathula

^Counsel for Respondents : --

<GIST:

>HEAD NOTE:

? Cases referred:

¹ 2011 SCC online Madras 1255² 2020 (2) ALT 79³ 2006 5 ALD P.89

**THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO****APPEAL SUIT No.308 of 2021****JUDGMENT:-**

A Public Trust known as “Sri Venkata Krishna Devaraya Welfare Trust, Dwaraka Tirumala” was registered as a “Public Charitable Trust” in the year 2005. The petitioner, who was elected as General Secretary of this Trust on 26.11.2009, being aggrieved by the unilateral activities being carried out by the respondents, had moved the Principal District Judge, West Godavari at Eluru, by way of a Trust O.P.No.675 of 2013 under Sections 3 and 7 of the Charitable and Religious Trust Act, 1920 read with Section 161 of C.P.C (for short ‘the 1920 Act’). This application came to be dismissed by the Principal District Judge on 02.12.2020. Aggrieved by the said order, the appellant had approached this Court by way of the present appeal.

2. This Court had raised a preliminary objection as to the maintainability of the said appeal on the ground that the original petition itself was not maintainable under the provisions of the 1920 Act, as Section 156 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short ‘the 1987 Act’) states that the 1920 Act would cease to apply to all Charitable and Hindu Religious Institutions and Endowments to which the 1987 Act applies.

3. Sri Ganga Kumar Chakravarthula, the learned counsel for the appellant submits that only institutions covered under the 1987 Act would fall outside the purview of the 1920 Act and the 1920 Act would apply to all other public institutions



and aggrieved persons could approach the civil courts for any of the remedies under the 1920 Act. He states that under the 1987 Act, it is only institutions registered under Section 6 which can be brought under the purview of the 1987 Act and none of the other institutions, even though they are Public Charitable Trusts, can be brought under the ambit of 1987 Act unless they are registered under the said Act. He would point to Sections 8, 15, and 43 of the 1987 Act to contend that these provisions apply only when the institution is registered under the Act. He would also mention that Section 87 Act which provides for resolution of disputes in the Act, provides resolution only in relation to those disputes which are enumerated under Section 1987 of the Act and the reliefs sought in the O.P. which fall squarely within the purview of Section 3 and 7 of the 1920 Act are not covered under Section 87 of the 1987 Act and as such, the petitioner would be entitled to approach the Civil Courts under the 1920 Act.

4. He relies upon the Judgments of the High Court of Judicature at Madras in the case of **M.G.Devasahayamvs. Sir John.D MONTE Trust**¹. The Judgment of the Hon'ble Supreme Court in **The Idol of Sri Ranganathaswamy Rep.by its Executive Officer, Joint Commissioner Vs. P.K.Thoppulan Chettiar, Ramanuja Koodam Anandhana Trust, Rep.by its Managing Trustee and Ors.**,² and the Judgment of the erstwhile High Court of Andhra Pradesh in **Srisailakhestra All**

¹ 2011 SCC online Madras 1255

² 2020 (2) ALT 79



**India Arya Vysya Anna Satra Sangam Vs. P.Satyanarayana
and others .³**

Consideration of the Court:

5. Before considering the issues raised by the learned counsel, it would be necessary to consider the relevance of the judgments cited by the learned counsel.

6. In the case of M.G.Devasahayam, a public trust had filed a petition, under Section 7 of the 1920 Act, for approving an agreement of lease of land owned by it in favour of two institutions. This application was opposed by an interested person, who sought to implead himself in the said application. The Court after considering the submissions made on either side was pleased to dismiss the application filed by the Trust as well as the application filed by the interested person for being impleaded in the said case. However, the said interested person found that, after the dismissal of the petition, the two institutions in whose favour a lease was sought, were in occupation of the said property. Thereupon, the said interested person had issued notices to the trust at which stage it came to light that there was a further memorandum of understating with another company for leasing the said property. With a view to ascertain these facts and to obtain the documents relating to these transactions, the interested person had filed a petition under Section 3 of the Act. The Hon'ble High Court of Madras had thereupon delved into the genesis of the 1920 Act as well as a comparison of the Provisions of this Act with Section 92 of the Civil Procedure Code to ascertain

³2006 5 ALD P.89



the meaning of a “person having interest” in the trust and the *locus standi* of the said interested person. However, the learned Single Judge declined to pass any orders in view of the pendency of a Special Leave Petition before the Hon’ble Supreme Court in relation to the same transactions.

7. In **Idol of Sri Ranganatha Swamy’s** case (2 supra) the learned counsel for the appellant, the Hon’ble Supreme Court was dealing with a case where permission for sale of property belonging to a trust was being challenged. The Hon’ble Supreme Court went into the question of whether the deed of settlement had created a specific endowment regulated by the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 or a private trust. After an analysis of the deed of trust and a review of the law relating to the distinction between a public and private charity, the Hon’ble Supreme Court had held that the deed of settlement created a specific endowment regulated by the Act of 1959 and set aside the earlier directions of the High Court of Judicature at Madras permitting such a sale. Neither of these Judgments would assist the case of the appellant as they are not relevant for deciding the question whether the 1920 Act ceases to have effect in the State of Andhra Pradesh in view of Section 156 of the 1987 Act.

8. Section 156 of the 1987 Act reads as follows:

156. Central enactments cease to apply to charitable and religious institutions:

The enactments mentioned below shall cease to apply to Charitable and the Hindu Religious Institutions and Endowments therefore to which this Act applies; and Section 8 of the Andhra Pradesh General Clauses Act, 1981, shall apply



upon such cessor as if these enactments had been repealed by an Andhra Pradesh Act;

- (a) The Andhra Pradesh (Andhra Area) Endowments and Escheats Regulation, 1817;*
- (b) The Religious Endowments Act, 1863;*
- (c) The Charitable Endowments Act, 1890;*
- (d) The Charitable and Religious Trusts Act, 1920; and*
- (e) Sections 92 and 93 of the Code of Civil Procedure, 1908.*

9. The scope of Section 156 of the 1987 Act came to be considered by a learned Single Judge of the erstwhile High Court of Andhra Pradesh in the case of **Srisailakhestra All India Arya Vysya Anna Satra Sangam vs P.Satyanarayana and others (3 supra)**. In this case, a suit was filed in the trial Court under Section 92 of the Civil Procedure Code, for framing a scheme for proper functioning of the Sangam. An objection was taken before the trial Court as to the maintainability of such a suit as Section 92 of C.P.C. stands effectively repealed on account of Section 156 of the 1987 Act. This contention was repealed by the trial Court resulting and the case came up before the erstwhile High Court of A.P. A learned Single Judge held that the Bar under Section 156 of the 1987 Act would arise only in relation to those institutions, which are registered under Section 6 of the Act and the provisions of Section 92 and 93 of C.P.C. would be available in relation to those institutions which have not yet been registered under the 1987 Act. Unfortunately the attention of the learned Single Judge was not drawn to the provision of Section 1 of the 1987, Act which reads as follows:

1. Short title, extent, application and commencement:-

(1) This Act may be called the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987.



(2) *It extends to the whole of the State of Andhra Pradesh.*

(3) *It applies to,-*

(a) *all public charitable institutions and endowments, whether registered or not, in accordance with the provisions of this Act, other than Wakfs governed by the provisions of the Wakfs Act, 1954.*

Explanation:- *In this clause, the expression “public charitable institutions and endowments” shall include every charitable institution or endowment the administration of which is for the time being vested in any department of Government, or Civil Court, Zilla Praja Parishad, Municipality or local authority, or any company, society, organization, institution or other person;*

(b) *all Hindu public religious institutions and endowments whether registered or not in accordance with the provisions of this Act.*

10. Section 1(3)(a) makes the Act applicable to all Public Charitable Institutions whether they are registered or not. This would mean that the 1987 Act would apply even to all unregistered Public Charitable Trusts. As this provision has not been brought to the notice of the learned Single Judge, I must hold that the said Judgment is *per incuriam* on account of this provision not being brought to the notice of the learned Single Judge and consequently not a binding precedent.

11. The learned counsel appearing for the appellant had also raised the ground that the appellant cannot be without remedy as there is no remedy available under the Act.

12. The scheme of the Act is that the Endowments Tribunal constituted under Section 162 of the 1987 Act is the Tribunal which would resolve disputes arising under this Act. However, the power of the Tribunal to decide disputes is restricted to the disputes set out in Section 87 of the Act and such other provisions, such as Section 83 and 84 of the 1987 Act. Section 151 of the 1987 Act reads as follows:

**Section 151. Bar of Jurisdiction:**

No suit or other legal proceeding in respect of administration or management of an institution or endowment or any other matters of dispute for determining or deciding for which provision is made in this Act shall be instituted in any Court of Law except under and in conformity with the provisions of this Act.

13. This provision clearly states that the Bar against proceedings being initiated before any other forum is restricted to those legal proceedings or disputes for which, a provision is made under the 1987 Act. Consequently, all disputes or issues for which there is no dispute resolution mechanism under this Act can be raised before the Civil Courts or such other appropriate forum as may be found by the aggrieved person.

14. In the circumstances, in view of the affective repeal of the Charitable and Religious Trusts Act, 1920 under Section 156(d), the original petition itself was not maintainable and consequently the present appeal is also not maintainable.

15. Accordingly, the Appeal is dismissed. There shall be no order as to costs.

Miscellaneous petitions, pending if any, in this Appeal shall stand closed.

JUSTICE R.RAGHUNANDAN RAO

Date : 05-10-2021

RJS



THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO

APPEAL SUIT No.308 of 2021

Date :- 05-10-2021

RJS