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APHC010566122016

**IN THE HIGH COURT OF ANDHRA PRADESH**
**AT AMARAVATI [3330]**
**(Special Original Jurisdiction)**

TUESDAY, THE 21ST DAY OF JULY 2026

**PRESENT**
**THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO**

**WRIT PETITION No.35270 of 2016**

**Between:**

1. LAKKIREDDY KRUPAVAR REDDY,, S/O. LATE SIVARANGA REDDY, AGED ABOUT 29 YEARS, OCC: AGRICULTURE,' R/O. CHINNAPASUPULA VILLAGE, PEDDAMANDIUM MANDAL, Y.S.R.DISTRICT.
2. LAKKIREDDY PULLA REDDY,, S/O. LATE SIVARANGA REDDY, AGED ABOUT 30 YEARS, OCC: AGRICULTURE, RIO. CHINNAPASUPULA VILLAGE, PEDDAMARIDIUM'MANDAL, Y.S.R.DISTRICT.

**...PETITIONER(S)**

**AND**

1. THE STATE OF ANDHRA PRADESH REP BY ITS PRINCIPAL SECRETARY, REVENUE DEPARTMENT, SECRETARIAT BUILDINGS, HYDERABAD.
2. THE DISTRICT COLLECTOR, Y.S.R DISTRICT, KADAPA.
3. THE REVENUE DIVISIONAL OFFICER, JAMMALAMADUGU REVENUE DIVISION, JAMMALAMADUGU, Y.S.R DISTRICT.
4. THE TAHASILDAR, PEDDAMUDIAM MANDAL, Y.S.R DISTRICT.
5. THE ASSISTANT COMMISSIONER OF ENDOWMENTS, ENDOWMENTS DEPARTMENT, KADAPA, Y.S.R. DISTRICT.
6. INSPECTOR OF ENDOWMENTS ENDOWMENTS DEPARTMENT, PRODDATUR, Y.S.R.DISTRICT.
7. SRI CHENNA KESHAVA SWAMY TEMPLE, CHINNAPASUPULA VILLAGE, PEDDAMUDIAM MANDAL, Y.S .R DISTRICT, REPRESENTED BY ITS EXECUTIVE OFFICER.

**...RESPONDENT(S):**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the Register under Section 43 of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 prepared by the respondent No.6 and entering the land in an extent of Ac. 3.12 cents in Sy.No.44/2, Ac.7.1l cents in Sy.No.54/2 and Ac.1.28 cents in Sy.No.61 . of Chinnapasupula Village, Peddamudiam Mandal, Y.S.R District, belong to the petitioners, in the said Register as without power or authority, colorable exercise of power, contrary to the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 and settled principles of legal position, apart from being violative of fundamental and Constitutional rights guaranteed to the petitioners under Articles 14, 19, 21 and 300-A of the Constitution of India and consequently set aside the same and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

**Counsel for the Petitioner(S):**

1. V R REDDY KOVVURI

**Counsel for the Respondent(S):**

1. GP FOR REVENUE (AP)
2. GP FOR ENDOWMENTS (AP)
3. A SREEKANTH REDDY(SC FOR ENDOW RS)

**The Court made the following:**

**THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO**

**WRIT PETITION No.35270 of 2016**

**ORDER:**

The present Writ Petition is filed aggrieved by the action of the 6th respondent in registering the property in an extent of Acs.3.12 cents in Sy.No.44/2, Acs.7.11 cents in Sy.No.54/2 and Acs.1.28 cents in Sy.No.61 of Chinnapasupula Village, Peddamudiam Mandal, YSR Kadapa District, certificate under Section 43(6) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (hereinafter referred to as 'the Act 30 of 1987'), as the 6th respondent is not the authority to register the land as endowment property.

2. The 6th respondent issued 'certificate of registration' as endowed property under sub-section (6) of Section 43 of the Act 30 of 1987, wherein the land of the petitioners has been certified as endowed land in the aforesaid survey numbers. Before issuing certificate under Section 43(6) of the Act 30 of 1987, the respondents have to follow the procedure as stipulated in sub-section (5) of Section 43 of the Act 30 of 1987 and the above said land was purchased through registered sale deed dated 15.11.1948 registered as Doc.No.2241/1948 and through a registered sale deed dated 08.09.1933 registered as Doc.No.1683/

1933. Since the date of purchase, the great grandfather and their successor have been in possession and enjoyment of the land. When the 7th respondent issued an auction notice dated 13.08.2014, the writ petitioners filed a Writ Petition No.23841 of 2014 for grant of leasehold rights along with some other land owners, before the erstwhile High Court of Andhra Pradesh and the auction notice was stayed by the erstwhile High Court of Andhra Pradesh and the petitioners' name was mutated in the revenue records and the certificate of registration should be entered into the register after conducting an enquiry under sub-section (5) of Section 43 of the Act 30 of 1987. Hence, prayed to declare the certificate issued under sub-section (6) of Section 43 of the Act 30 of 1987, as illegal and arbitrary and, consequently, prayed to delete the subject land from sub-section (6) of Section 43 of the Act 30 of 1987.

3. Learned counsel for the petitioners also placed reliance on the judgment of this Court in Nallamothu Veeraiah and others Vs. State of Andhra Pradesh rep. by its Principal Secretary, Revenue (Endowments) Department, Velagapudi, Amaravathi, Guntur District and others reported in 2022 (1) ALT 229 (AP), for the proposition that under Section 43(5) of the Act 30 of 1987 mandates an enquiry and in the

present case, as no enquiry was conducted, no notice was issued. Hence, argued that the said judgment is squarely applicable to the present facts of the case.

4. A Co-ordinate Bench of this Court referring to referring to Section 43(5) of the Act 30 of 1987 has allowed the Writ Petition by setting aside the impugned proceedings therein and directed the respondents to consider any further action only after issuing necessary notices to the petitioners and all such other persons having interest in the temple, by way of personal notice and by way of publication in the news paper and any further decision taken by the Commissioner shall only be after giving an adequate opportunity of hearing to the petitioners and persons having interest, as to why the temple should not be registered and what are the details or alterations to such details that need to be entered under Section 43(4) of the Act 30 of 1987 holding that Section 43(5) of the Act 30 of 1987 mandates the same

5. Learned counsel for the petitioners also relied on an order dated 09.12.2013 in W.P.No.29506 of 2013, wherein a learned Single Judge of the erstwhile High Court held that mere entry in the RSR does not constitute evidence of title to the property and even otherwise, when the said RSR does not show that the temple is the pattadar or inamdar.

6. Learned counsel also relied on the order of this Court in W.P.No.23856 of 2020 dated 23.09.2021 for the very same proposition and also argued that when the respondent authorities have issued a certificate without conducting enquiry as contemplated under the provisions of sub-section (5) of Section 43 of the Act 30 of 1987, Writ Petition is maintainable and there is no need to approach the Tribunal under Section 87 of the Act 30 of 1987 as non-consideration of the provisions of the Act 30 of 1987 amounts to violation of principles of natural justice. Hence, denied the arguments of the respondents' counsel about the maintainability of the writ petition

7. The 7th respondent – Executive Officer has filed counter affidavit and it is asserted that the 7th respondent Temple is oldest temple governed by the provisions of the Act 30 of 1987. Among other properties, the 7th respondent temple is having landed property of Acs.3.12 cents in Sy.No.44/2, Acs.7.11 cents in Sy.No.54/2, Acs.1.28 cents in Sy.No.61 of Chinnapasupula Village, Peddamudiam Mandal, YSR Kadapa District and the revenue record, such as, RSR, Adangal and 1B register reflects the name of the Manager for the time being of Sri Chenna Kesava Swamy Temple. The pattadar passbooks and title deed produced by the petitioners are non-est in the eye of law and they

have been issued to the petitioners without any notice to the temple at any point of time by the competent authority and the list the properties of the 7th respondent were communicated to the Sub-Registrar through proper channel as per Annexure-III of Section 22-A(1) of the Registration Act and as such all steps have been taken to protect the properties of the institution from encroachers. If at all, the petitioners are disputing the title over the property, the remedy of the petitioners is to approach the Tribunal constituted under Section 87 of the Act 30 of 1987.

8. Learned counsel appearing for the 7th respondent would submit that the remedy of the petitioners is before the Endowment Tribunal and relied on the orders of the Division Bench of this Court in W.P. (PIL) No.70 of 2022 dated 29.03.2023, wherein it is held that once an entry is made in the register maintained under Section 43 of the Act 30 of 1987, the remedy available for the aggrieved party is to approach the A.P. Endowments Tribunal.

9. Learned counsel for the 7th respondent also relied judgment in W.A.Nos.888 and 899 of 2022 dated 23.09.2023, of a Division Bench of this Court after considering Section 43 of the Act 30 of 1987, held that once the property has been registered and brought on the register

maintained under Section 43 of the Endowments Act, the writ Court cannot direct the registration of the property in the name of the petitioners in the light of the existence of Section 22-A of the Registration Act and the remedy is to approach the Tribunal constituted under the Endowments Act as per Section 87(c) of the Endowments Act and the Tribunal would have the jurisdiction to determine whether any property is an endowment, if so, whether it is a charitable endowment or a religious endowment. Hence, prayed to dismiss the Writ Petition and to direct the writ petitioners herein to invoke the appropriate alternative remedy available under law.

10. After considering the arguments and perusing the material available on record and after giving anxious consideration to the arguments that advanced by the learned counsel for the petitioners and as well as the learned Standing Counsel for the 7th respondent, this Court is of the view that Section 43(5) of the Act 30 of 1987 envisages or stipulates that an enquiry has to be conducted before registering and issuing a certificate under Section 46 of the Act 30 of 1987. The relevant provision is hereby extracted for the benefit of proper disposal of the writ petition.

11. The procedure to be followed for registration/publication of institutions under the Endowments Act, 1987 can be summed up as follows:

(A) (i) where an application is made under Section 43(4) of the Act, 1987, the registering authority shall issue personal notice, to such persons having interest as are within the knowledge of the registering authority and also publish a notice in the local newspapers giving, all persons having interest in the institution, an opportunity to put-forth their views and objections.

(ii) After affording an adequate opportunity to all such persons, the registering authority shall take a decision whether the institution has to be registered or not. If a decision is taken to register the institution, the registering authority shall register the same after filling in all the necessary details required under Section 43(4) of the Act.

(B) Where the registration is carried out under Section 44 of the Act, the following procedure shall be followed:

(i) The Jurisdictional Assistant Commissioner either suo motu or on such information that is given to him, shall give a report to the Commissioner, Endowments detailing the institution that requires to be registered and the names of the person or persons, who have failed to approach the competent Jurisdictional Assistant Commissioner under Section 43 of the Act.

(ii) Upon such information being given by the Assistant Commissioner, or being received from any other source, the

Commissioner shall issue notices under Form-II to all persons, who are in default, to file an application for registration within the time given in the notice.

(iii) The Commissioner shall also issue notices to all persons having interest in the institution either by way of personal notice or by way of publication of the notice in the local news papers or both, giving opportunity to such persons to put-forth their views and objections on the aspect of registration. as well as the details which are to be contained under Section 43(4) of the Act.

(iv) The Trustees, persons in management and/or the persons having interest are entitled to file their objections in relation to the question of whether the said Institution is liable to be registered and/or the details that are required to be included in the register under Section 43 of the Act. They may also place such material as they deem necessary before the Commissioner. After giving adequate opportunity for all such objections to be filed, the Commissioner after considering these objections and material submitted by the objectors and after such enquiry as may be deemed fit, shall take a decision as to whether the institution is to be registered or not and the details that need to be registered under Section 43(4) of the Act.

(v) In the event of the Commissioner determining that the institution requires to be registered, he shall issue directions to the Jurisdictional Assistant Commissioner to register the institution along with the details that need to be entered in the register under Section 43(4) of the Act.

(vi) Upon such instructions being received, Jurisdictional Assistant Commissioner shall register the institution duly entering of the details required under Section 43(4) of the Act. This process shall be done at the cost of the institution.

(C) After such registration, the income of the institution is to be assessed under Section 65 of the Act, 1987.

(D) Basing upon the quantum of income assessed under Section 65 of the Act, 1987, the institution is to be published by the appropriate authority on the basis of the calculation done according to the income of the institution.

12. As provided under Section 43(4) of the Act 30 of 1987, the procedure to be followed for issuing a registration certificate is detailed in Section 43(6).

13. Admittedly, either in the counter affidavit or the arguments presented by the 7th respondent have not denied the petitioners' contention that no notice was issued or any enquiry was conducted as stipulated under Section 43(5) of the Act 30 of 1987. Section 43(5) of the Act 30 of 1987 mandates that an enquiry be held, providing all interested persons the opportunity to raise relevant issues before the Assistant Commissioner. Moreover, it is admitted that the petitioners are in the possession of the subject property as on today.

14. The Apex Court in the case of Union Of India And Another vs W.N. Chadha reported in 1993 Supp (4) SCC 260, analysed a detailed discussion regarding the rule of *audi alteram partem*, referencing several judgments. The relevant paragraphs are set out below:

> “Only in case where a public officer has got such a power, the question of 'fair play in action' will be attracted. This rule was explained by Lord Denning M.R. in Schmidt v. Secretary of State for Home Affairs 1969 (2) Chancery Division 149, stating that "where a public officer has power to deprive a person of his liberty or his property, the general principle is that it has not to be done without his being given an opportunity of being heard and of making representations on his own behalf".

15. The rule of *audi alteram partem* is not attracted unless the impugned order is shown to have deprived a person of his liberty or his property. In the present case, it has to be seen whether such consequences have arisen from the impugned GO.

16. The above explanation is quoted in Maneka Gandhi vs Union of India & Anr reported in (1978) 1 SCC 248.

17. The rule of *audi alteram partem* is a rule of justice and its application is excluded where the rule will itself lead to injustice. In A.S.

de Smith's Judicial Review of Administrative Action, 4th Ed. at page 184, it is stated that in administrative law, a prima facie right to prior notice and opportunity to be heard may be held to be excluded by implication in the presence of some factors, singly or in combination with another. Those special factors are mentioned under items (1) to (10) under the heading "Exclusion of the *audi alteram partem* rule'.

18. Thus, there is exclusion of the application of *audi alteram partem* rule to cases where nothing unfair can be inferred by not affording an opportunity to present and meet a case. This rule cannot be applied to defeat the ends of justice or to make the law 'lifeless, absurd, stultifying and self-defeating or plainly contrary to the common sense of the situation' and this rule may be jettisoned in very exceptional circumstances where compulsive necessity so demands.

19. The Division Bench judgments cited by the 7th respondent pertain to the removal of land from the prohibited list under Section 22A(1)(c) of the Registration Act. However, the Registration Department has classified the property therein in the prohibited list on the ground that it is temple land, as certified under Section 43 of Act 30 of 1987. The facts there are not similar and it is distinguishable from the present case,

which concerns the registration of land specifically under Section 43 of Act 30 of 1987.

20. In light of the above, the respondents are directed to issue notice to the petitioners who are affected parties who are having an interest in the subject property before granting a registration certificate under Section 43(6) of Act 30 of 1987. Further action of the respondents is only after following the procedure as outlined in Section 43 of the Act 30 of 1987. Any further decision is taken by the Commissioner, it shall only after giving an adequate opportunity of hearing to the petitioners and the persons having interest as to why the property should not be treated as endowed property.

21. With the above direction, the Writ Petition stands disposed of. There shall be no order as to costs.

As a sequel thereto, Interlocutory Applications pending, if any, shall stand closed.

**JUSTICE TARLADA RAJASEKHAR RAO**

Date: 21.07.2026

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**THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO**

WRIT PETITION No.35270 of 2016

Date: 21.07.2021

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