Orders Reserved on : 06.05.2026.
Orders Pronounced on : 17.06.2026.
Orders Uploaded on : 17.06.2026.

APHC010251742026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3579]
(Special Original Jurisdiction)

WRIT APPEAL No: 596 OF 2026

Between:

1. SHAIK MASTHAN VALI, S/O. SUBHANI, AGED ABOUT 45 YEARS, OCC BUSINESS, R/O. H. NO. 1-221, PRATHIPADU VILLAGE PRATHIPADU MANDAL, GUNTUR DISTRICT.

...APPELLANT

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, ENDOWMENTS DEPARTMENT, A.P. SECRETARIAT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT-522237.
2. THE COMMISSIONER OF ENDOWMENTS DEPARTMENT, GOLLAPUDI, VIJAYAWADA-521225
3. THE ASSISTANT COMMISSIONER ENDOWMENTS, GUNTUR, GUNTUR DISTRICT-522002.
4. THE ADDITIONAL COMMISSIONER, OFFICE OF THE ENDOWMENT DEPARTMENT, ANDHRA PRADESH AT GOLLAPUDI-521225.
5. VIVEK CHOWDARY, S/O. SUBBA RAO, AGED ABOUT 40 YEARS, R/O. D. NO.7-78, ABBINENIGUNTAPALEM, PEDANANDIPADU MANDAL, GUNTUR DISTRICT-522235.
6. SRI MADAMANCHI RAMASWAMY TRUST, REP. BY ITS MANAGING TRUSTEE, PRATHIPADU, GUNTUR DISTRICT-522019.

...RESPONDENT(S):

CORAM:- THE HON'BLE CHIEF JUSTICE Mrs.LISA GILL

THE HONOURABLE Mr.JUSTICE NINALA JAYASURYA

DATE:- 17th June, 2026.

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PRESENT: Mrs.P.Padmavathi, Advocate for Petitioner
Kappara Koteswara Rao, SC for Endowments, AP Region
Government Pleader for Endowments for respondents.

The Court made the following Judgment: *(Per Hon'ble Mr.Justice Ninala Jayasurya)*

1) Aggrieved by order of dismissal dated 16.04.2026, petitioner in W.P.No.10184 of 2026, preferred the present writ appeal.

2) Facts in brief, for better appreciation are, for carrying on petty business of a fancy store in a shop, petitioner obtained License dated 09.03.2013 from Andhra Pradesh State Road Transport Corporation. License was for a period of five years. Rents were paid regularly. Subsequently in the year 2023, Executive Officer of Sri Madamanchi Ramaswamy Trust (hereinafter referred to as "the Trust") issued a notice to pay monthly rents to Executive Officer, Endowments Department. Accordingly, petitioner paid rents regularly to Department.

3) On oral instructions of one Mr. Vivek Chowdary, purportedly Managing Trustee of Trust, petitioner paid monthly rent to him personally from June 2024 onwards till June 2025. From July 2025 onwards, petitioner was not allowed to pay rent. On a representation dated 06.09.2025 of petitioner and Letter dated 27.09.2025 of Managing Trustee, Assistant Commissioner, Endowments Department, Guntur, *vide* communication dated 01.11.2025 while according permission to Managing Trustee to initiate action for eviction, directed petitioner to vacate and handover Shop No.4 to Managing Trustee of Trust to utilize the same for office purpose of institution.

4) Challenging said proceedings dated 01.11.2025, petitioner filed W.P.No.31813 of 2025. Learned Single Judge after perusing record and considering submissions made on both sides, disposed of Writ Petition vide Order dated 12.12.2025, relevant portion of which reads as follows:

> "6. It is relevant to refer to Rule 3 of the Andhra Pradesh Charitable & Hindu Religious Intuitions & Endowments Immovable Properties and Other Rights (Other than Agricultural Lands) Leases and Licenses Rules, 2003 (hereinafter referred to as "the Rules") which provides that:
>
> **"3. Mode of confirmation of Lease or License rights:-**
> **(1) All leases or licenses shall be made by way of Tender-cum-Public Auction on Annual Advance Rental basis.** The Executive Authorities shall also call for tender or auction electronically if the value of the transaction exceeds Rs.10 lakhs. The E-tenders have to be opened after the completion of public auction and opening of regular tenders, if any.
> (2) The public auction shall be held at the place where the properties are situation or right exists:
> xxxxx."
>
> 7. As per the above Rule, the leases and licenses in respect of the properties other than agricultural properties shall be through public auction. It is not the case of the petitioner that the license in respect of the subject property was granted in his favour pursuant to the auction conducted by the Endowments Department.
> 8. Having regard to the same, the proceedings of the 3rd respondent, directing the Trust to use the subject premises for its office use and occupation and to conduct a public auction in respect of the remaining shops, in my considered view, are in consonance with the above Rules. Apart from the same, the impugned proceedings have emanated pursuant to the representation of the petitioner; a copy of the said representation is not filed before the Court. The request made by the petitioner in the said representation dated 06-09-2025 is not clear from the pleadings. It is reflecting from the impugned proceedings

that a report was called for from the managing Trustee, pursuant to the representation of the petitioner. The Trust has not been made a party respondent to the Writ Petition. Managing Trustee of the Trust is made a party in his individual capacity, not as a Trustee of the institution.

9. In view of the foregoing, the authorities cannot be faulted for passing the impugned orders. The judgments relied upon by the learned counsel for the petitioner are distinguishable on facts. However, since the petitioner has been using the premises for his business, the impugned order is modified to the effect of granting time to the petitioner to vacate the subject premises. Accordingly, the petitioner is granted time till the end of March, 2026, to vacate the subject premises.

10. The petitioner shall vacate the subject premises on or before 31.03.2026 and hand over vacant possession to the Executive Authority of the Trust. The 4th respondent is directed to restore the electricity service connection to the subject premises."

5) Against the said order in W.P.No.31813 of 2025, tenant / petitioner filed Writ Appeal No.60 of 2026 *inter alia* alleging that Order dt.12.12.2025 had been passed without any notice to him. Division Bench disposed of said Writ Appeal by it's order dated 02.02.2026, giving liberty to decide the matter after serving appropriate notice upon present appellant i.e., writ petitioner in said proceeding and also affording an opportunity of personal hearing.

6) Pursuant to above said order of Division Bench, Managing Trustee of 6th respondent issued Notice dated 03.02.2026 under Section 83 (2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act,1987 (for short "the Act") (as amended by Act No.36 of 2023) to tenant / writ petitioner calling upon him to submit explanation within

stipulated time of 21 days or to vacate Shop No.4, in case petitioner has no explanation to offer. Failing which, it was also informed that appropriate action will be taken in terms of Section 83 of Act No.36 of 2023.

7) Appellant / writ petitioner submitted his reply dated 23.02.2026 stating that he is in continuous permissive possession and because of conflicting claims between Endowments Department and Trust, he is being subjected to hardship and difficulties; that though some other shops are vacant, efforts are being made to evict him only. An objection with regard to competency of Managing Trustee in issuing Notice was also raised. Managing Trustee of Trust of 6th respondent, after taking explanation into consideration passed Final Order dated 09.04.2026 and directed petitioner to vacate the subject Shop, within seven days from the date of said order.

8) Feeling aggrieved, appellant / writ petitioner filed W.P.No.10184 of 2026 before learned Single Judge challenging proceedings dated 27.06.2024 whereby appointment of Executive Officer to 6th respondent institution was withdrawn. Competency of 5th respondent, who was made eo-nomine party to writ petition in issuing notice dated 03.02.2026 and consequential final order dated 09.04.2026 was questioned and prayer to set aside Proceedings dated 27.06.2024 and 09.04.2026 was made. In the light of proviso to Section 29 of the Act, learned Judge disposed of writ petition by order dated 16.04.2026, against which present appeal came to be filed.

9) Heard learned counsel for appellant / writ petitioner. Also heard Mr.V.Venugopal Rao, learned Senior Counsel appearing on behalf of 6th respondent.

10) Learned counsel for appellant / writ petitioner strenuously argued that order under appeal is not sustainable and is liable to be set aside, as it is contrary to law. Referring to material on record, she submits that Trust in question was registered under Section 43 of the Act as a charitable institution; that to manage its affairs, Commissioner of Endowments-2nd respondent appointed an Executive Officer vide proceedings dated 01.12.2023, that charge was assumed on 07.12.2023. She submits that challenging said proceedings, Managing Trustee filed W.P.No.32143 of 2023 and later withdrew the same. Further, in view of disputes between Endowments Department and Trust, appellant / writ petitioner, admittedly a tenant, who was running a petty fancy store, is put to hardship. She also submits that appellant is in permissive possession of shop No.4 and that contrary to provisions of the Endowments Act, steps to evict him were initiated. She vehemently argues that filing of present appeal was well within knowledge of authorities of Trust, yet, appellant was high handedly evicted from subject matter shop on 04.05.2026, with the help of Police force. She seeks restoration of possession of Shop No.4 to appellant.

11) The Principal contention advanced is that very issuance of Notice dated 03.02.2026 and Order dated 09.04.2026 impugned in the writ petition is without jurisdiction; that 5th respondent, who is claiming to be Managing Trustee, was not appointed as such in terms of the Act and learned Single Judge without considering the same in correct perspective, passed order under Appeal. Reference in this regard was made to relevant provisions of law under the Act i.e., Section 17 & 83 etc.

12) Learned counsel for 6th respondent on the other hand made submissions to sustain order under challenge. He contends that Managing Trustee of Trust, who is also acting as Executive Officer is competent to initiate proceedings for eviction of appellant / writ petitioner, who is continuing in subject matter shop of Trust, without any lease or license. He submits that in the light of order dated 02.02.2026 passed by Division Bench, a notice dated 03.02.2026 was issued to appellant and opportunity of personal hearing was also afforded on 23.03.2026, but appellant / writ petitioner failed to avail it. Therefore, final order of eviction was passed on 09.04.2026 by duly taking into account appellant's explanation dated 23.02.2026. He asserts that after expiry of time as contemplated under provisions of the Act, appellant / writ petitioner was evicted from shop in question, with the assistance of police in terms of Sec.83(3) & (4) by duly conducting panchanama and preparing an inventory. He also states that

Trust is intending to use subject matter shop for its office purpose and appellant/writ petitioner has no right, much less legal right to object to the same. Further that Trust is proposing to auction other shops, which are vacant. Making said submissions, learned senior counsel seeks dismissal of appeal as there is no illegality in the order passed by learned Single Judge.

13) This Court has considered submissions made and perused material on record.

14) At the outset, it may be appropriate to note that though learned counsel for appellant made detailed submissions to impress upon the Court that order under appeal is unsustainable, the main contention is that Managing Trustee of Trust in question is lacking in authority and jurisdiction to initiate proceedings of eviction against appellant / writ petitioner, as per provisions of the Act. According to learned counsel, it is Executive Officer of Endowments Department or Assistant Commissioner, who is vested with jurisdiction to initiate action for eviction and therefore, proceedings initiated by Managing Trustee, which culminated into eviction of appellant were vitiated.

15) Arguments so advanced appears to be attractive at first blush. However, we are not persuaded to accept the same in the light of the material on record. It is noted that the Commissioner of Endowments / appointed an Executive Officer to manage the affairs of the institution by

proceedings dated 01.12.2023. Subsequently, *vide* Proceedings in Rc.No.E2/15021/97/2023 dated 27.06.2024, order of appointment of Executive Officer dated 01.12.2023 was withdrawn and directions to handover management of the institution to the members of founder's family were issued. No specific contention with regard to Proceedings dated 27.06.2024 was addressed, obviously in view of the fact that the said proceedings was issued by an order of the 2nd respondent / Commissioner of Endowments, but not by 4th respondent on his own.

16) Nevertheless, learned counsel for appellant contended that 5th respondent cannot be recognized as Founder family member of Trust on the premise that no appointment was made in terms of Sec.17 (1) of the Act. The said contention, in the opinion of this Court, deserves examination only at the instance of a rival claimant. That apart, the Proceedings dated 27.06.2024 are in consonance with proviso to Section 29 of the Act, which reads as follows:

> "29. Appointment and duties of Executive Officer – There shall be an Executive Officer for every Charitable or Religious Institution or Endowment to be appointed by the Government in the case of institutions and Endowments having income of rupees one crore and above and by the Commissioner in the case of other Institutions and Endowments included in the lists published under clauses (a) and (b) of Section 6. In respect of charitable or religious institutions or endowment having income of less than rupees two lakhs per annum, and included in the list published under clause (c) of section 6, it shall not be necessary to appoint an executive officer. The cadre of Executive Officers to be appointed under this section for the respective institutions on the basis of the income of the Institution or Endowment shall be as may be prescribed:

> Provided that, where there is no Executive Officer in respect of any Charitable or Religious Institution or Endowment, the trustee or the Chairman of the Board of Trustees or any employee of any Institution or Endowment where the income exceeds Rs.2 lakhs, but is less than Rs. 25 lakhs per annum, duly authorised by the Commissioner in this behalf shall exercise the powers and perform the functions and discharge duties of an Executive Officer:
>
> Provided further that it shall be competent for the Commissioner to appoint an Executive Officer to any institution having income of less than Rs. 2 lakhs per annum if there are substantial immovable properties to the institution or if he is satisfied that such appointment is necessary in the interest of better administration of the institution or for any other reason to be recorded in writing:
>
> Provided also that, it shall be competent for the Commissioner to constitute such number of Charitable and Hindu Religious Institutions and Endowments as may be necessary, into a single group for the purpose of appointing an Executive Officer or any other employee to such group."

Therefore, the Notice dated 03.02.2026 and the Order dated 09.04.2026 pursuant thereto, is well within the powers of 6th respondent, who is managing affairs of the institution as an Executive Officer.

17) In fact, record discloses that appellant was not regular in payment of rents and was depositing / paying lump sum amounts towards rents in the name of Trust. This itself goes to indicate that issue is with regard to competency of the person to issue Notice dated 03.02.2026 and consequential final order of eviction dated 09.04.2026, which was already given effect to.

18) Arguments at length were addressed with much emphasis on Section 83(2) of Act 36 of 2023 (Amendment to Andhra Pradesh Charitable and

Hindu Religious Institutions and Endowments Act, 1987). In terms of Act 36 of 2023, Section 83 of the Principal Act was substituted as follows:

"83. Encroachment of land, building or any property belonging to a charitable or religious institution or endowment and the eviction of encroacher,

(1) Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, the encroachment of land, building or any property of a charitable or religious institution or endowment is prohibited.

(2) The Executive Officer of the Charitable or Religious Institution or Endowment or the Assistant Commissioner or any authority higher in rank thereof, shall, by notice, require the encroacher to remove the encroachment as hereinafter provided.

Provided that the encroachers shall be entitled to submit reply / explanation to such notice within one week from the date of receipt of such notice, which shall be duly considered and appropriate orders thereon shall be passed.

(a) either withdrawing the notice issued and dropping further proceedings; or

(b) affirming the notice and duly stipulating the time within which such encroachment shall be removed

(3) If the encroacher fails to remove the encroachment within such stipulated period, the authority who issued the notice shall remove the encroachment with police assistance, if necessary and recover the cost of removal from the encroacher.

(4) For the purpose of securing police assistance, the authority concerned shall approach the jurisdictional Superintendent of Police / Commissioner of Police who shall thereupon provide such police assistance as is deemed necessary for the removal of encroachment.

(5) Any act of encroachment including the attempt to encroach shall be a cognizable offence, non-bailable and triable as a warrant case, in accordance with the provisions of Code of Criminal Procedure, 1973, punishable with imprisonment for a term which shall not be less than three years but which may extend to eight years and with fine which may extend to Rupees one lakh.

Explanation : (i) For the purpose of this Chapter the expression encroachment means every activity by a person or group of persons,

without any lawful entitlement and with a view to illegally take possession of lands, buildings or property of an endowment institution.

(a) Occupy the said lands buildings or property, without the approval of the competent authority sanctioning lease / mortgage / license or continued occupation of land buildings or property after the expiry or cancellation of the lease, mortgage or license or permission in respect thereof.

(b) Enter into or create illegal tenancies or lease and licences, agreement or any illegal document of tile in respect of such property.

(c) Construct un-authorized structures thereon for sale or hire or for his / her own use and includes an attempt to encroach in the manner indicated above.

(ii) The term encroacher shall be construed accordingly.

(iii) This shall be in addition to the provisions herein above contained empowering the removal of encroachment in the manner provided in this section.

(6) Any person aggrieved by the orders passed by the authority under subsection (2) above shall have a right of appeal to the Endowments Tribunal within fifteen days from the date of receipt of the said orders.

(7) During the pendency of the appeal, the Endowment Tribunal is competent to pass such interim orders in the interests of justice including any direction to the encroacher to deposit such amount either as rentals or otherwise, as may be specified by it in consideration of the use and occupation of the properties in question.

(8) If any encroacher fails to remove the encroachment within such stipulated period mentioned in the eviction orders already passed by Endowments Tribunal, the Executive Authority of the institution of the Assistant Commissioner having jurisdiction over the District shall remove the encroachment with such police assistance, if necessary and recover the cost of removal from the encroacher."

The validity of amended provisions of Act No.36 of 2023 is pending adjudication before this Court. Be that as it may.

19) With reference to above said amended provision i.e., Section 83 (2) of the Act, the essence of arguments advanced by learned counsel for appellant is that as there is no Executive Officer for managing affairs of the institution in question, Assistant Commissioner alone is competent to issue Notice under Section 83 (2) of the Act. The same merits no acceptance as appointment of Executive Officer of the Department was cancelled and management of the institution was entrusted to founder family members of the Trust. In view of the same, Assistant Commissioner has no role to play with regard to eviction of tenant of institution in question, the income of which as per proceedings dated 27.06.2024 is Rs.2 lakhs only.

20) Appellant / writ petitioner, in the earlier round unsuccessfully challenged proceedings dated 01.11.2025 permitting Managing Trustee of the institution to take steps to evict tenant / appellant from subject matter shop No.4. Even in W.A.No.60 of 2026 filed against order in Writ Petition No.31813 of 2025, no positive relief was granted, except modification of order of learned Single Judge. For ready reference, order of Division Bench is reproduced hereunder:

> "The case of the appellant is that the appellant is in possession of land belonging to respondent No.6 Trust and that it was sought to be evicted from the premises in question without following due process and without issuing any notice of granting to the petitioner an opportunity of being heard.
>
> Learned counsel for the respondents do not deny the fact that no notice was served on the appellant by the concerned.

> Since the issue falls in a very narrow compass, we dispose of this petition with liberty to the respondents to serve upon the appellant an appropriate notice within two weeks from today, which shall be responded to within three weeks thereafter. An appropriate decision be taken by the respondents based upon the response so filed. An opportunity of personal hearing be also granted to the appellant. The judgment and order impugned shall stand modified to that extent."

21) In terms of aforementioned order dated 02.02.2026, which had attained finality, a notice was admittedly issued to appellant and it is not in dispute that though an explanation was submitted to the same, for reasons best known, appellant did not avail opportunity of personal hearing. Thereafter, order of eviction was passed. There is no violation of principles of natural justice and action initiated is in accordance with Law. Appellant being a tenant and not regular in payment of rents cannot question the title of Land Lord or take advantage of any dispute stated to be between Trust and Endowments Department, much less by raising a plea of permissive possession. The intention of appellant appears to be to somehow cling on to the property, without any valid lease or license and the same is not tenable.

22) Considering the matter in its entirety, decision rendered by learned Single Judge with reference to facts and statutory provisions does not suffer from any illegality, calling for interference by this Court in the present intra-Court appeal.

23) For the aforegoing reasons, the appeal is dismissed, without costs.

24) It is however clarified that the observations made and conclusions recorded above are confined to the purpose of disposal of present appeal and does not preclude appellant from invoking remedy(ies) against order dated 09.04.2026 in terms of Act 36 of 2023. If such procedure is adopted, the same shall be dealt with, strictly in accordance with law, without being influenced by any of the observations / conclusions recorded in the present appeal.

Consequently, Miscellaneous Applications pending, if any, shall also stand dismissed.

(LISA GILL)
CHIEF JUSTICE

(NINALA JAYASURYA)
JUDGE

Date:17.06.2026.
Ssv

THE HONOURABLE CHIEF JUSTICE Mrs.LISA GILL

THE HONOURABLE Mr.JUSTICE NINALA JAYASURYA

WRIT APPEAL No:596 OF 2026

Date:17.06.2026

Ssv