

(1997) 04 AP CK 0053
In the Andhra Pradesh High Court
Case No : Appeal No. 1216 of 1996

Asst. Commissioner, Endowments and Another	APPELLANT
Vs	
Sri Yellapu Narasaiah Annasatram and Another	RESPONDENT

Date of Decision : 28-04-1997

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 1(3), 17, 29(5)

Citation : (1997) 4 ALT 50

Hon'ble Judges : Ramesh Madhav Bapat, J

Bench : Single Bench

Advocate : G.P. No. 1 and Metta Chandrasekhar Rao, SC No. 2, for the Appellant; P.S. Narayana, for the Respondent

Final Decision : Allowed

Judgement

Ramesh Madhav Bapat, J.—This appeal is filed by the Assistant Commissioner, Endowments, Rajahmundry aggrieved by the judgment and decree passed in O.S. No. 57 of 1981 filed by the respondent herein.

2. It is necessary to know the little background of the litigation. One Sri Yellapu Narasaiah had created a trust bequeathing certain properties and created a trust in the name of Sri Yellapu Narasaiah Annasatram in the year 1929 for the purpose of feeding Brahmins as well as the bona fide travellers who visited the said place and also to provide the house-sites to the poor persons.

3. The trust was being managed by the members of the family of Yellapu Narasaiah till the year 1975 which was taken over by the Endowments Department being as a public trust.

4. Aggrieved by the aforesaid order the son of the original settler filed O. A. No. 2 of 1977 before the Deputy Commissioner, Endowments, Kakinada u/s 77 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act (for short "the Act")- The O.A. No. 2/77 was dismissed. Thereafter the son of the original

settler filed O.S. No. 57/81 for declaration of Sri Yellapu Narsaiah Annasatram as a private trust. The said suit was decreed. Against the said judgment and decree the present appeal has been filed.

5. The Executive Officer was added as one of the appellants as per order of this Court on 6-2-1997 in C.M.P. No. 227 of 1996.

6. Heard the Government Pleader for Endowments for the appellant No. 1 and Sri Metta Chandrasekhar Rao for appellant No. 2 and Sri P.S. Narayana for respondents.

7. It was the contention of the appellant herein that the trust deed which is produced on record would go to show that the trust was created for the benefit of Society at large especially the poor class of the society and bona fide travellers. My attention was invited to the copy of the trust deed dated 7-8-1926 executed by Yellapu Veeraswamy son of Yellapu Narsaiah. The last paragraph of the said deed reads as under:

"We made arrangement to give people house-sites to build houses in that place and wanted to construct Narasaiah Annasatram. As per the arrangements between myself and my brother, all bona fide travellers irrespective of their castes, should be fed and money should be spent for this purpose. The details of the land are: Sy No. 105 Inam Pallam in KoourivariGalli 16, Joint 72.221/2, Sy. No. 278Joint2.911/2 inPallam..... Sy. Nos. 143,144,146 13.6, in Tilukulavani Cheruvu in Sy. No. 141,142, 0.93 cts. and the cist coming from Sahebupump after Santarpana the remaining amount should go to Satram. All accounts should be maintained in order correctly. After my demise, my adopted son and after his demise his main heir should continue this. There should not be any deviation from this. This trust deed is executed by my consent. No. 143 Ac. 4.28, No. 144, Ac.8.19 cts. 146 Ac.0.69 cts. No. 141 Ac.4.24 cts. No. 142 Ac.3.53 cts."

By reading the entire trust deed, the learned Counsel for the appellant herein submitted that the trust which was created by the original settler was intended to be for the benefit of the public at large, therefore, it cannot be styled as private trust.

8. The learned Counsel Mr. P.S. Narayana appearing on behalf of the respondent who happens to be the original grandson of the original author of the trust i.e., Veeraswamy submitted at the bar that by reading the trust deed it is evident that Veeraswamy intended that it should be managed by the members of the family and therefore it should be treated as a private trust.

9. This Court is not in agreement with the submission made by the learned Counsel for respondent. Section 1(3)(a) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 reads as under:

"All public charitable institutions and endowments, whether registered or not, in accordance with provisions of this Act, other than Wakfs governed by the provisions of the Wakfs Act, 1954."

10. It is evident with the legal provision that this could be applicable to the present set of facts and the Government has every right to take over the Trust for the purposes of better management.

11. The learned Counsel Mr. Narayana submitted at the bar that if this Trust is held to be a Public Charitable Trust then according to the ruling reported in Gollareddigari Golla Reddy Vs. Mallepalli Adinarayana Reddy, wherein it is held that direct descendant of the settler to head the Board of Trustees my attention is invited by the Counsel for the respondent especially to Para 28 which reads as under:

"Sections 17 and 29(5) cannot, therefore, be faulted. Whatever rigour these sections have would be duly get softened by the requirement of the Board being headed by the founder or any of his family members, as the case may be. Subject to this rider, we uphold the validity of these two Sections."

12. Considering the ruling laid down by the Supreme Court this Court holds that the decree passed in O.S. No. 57 of 1981 is bad in law and is hereby set aside. But it is directed that the respondent No. 2 i.e., Yellapu Bulli Raju alias Kolra Bulli Raju, son of Narsimha Rao, being the direct descendant of the settler to head the Board of Trustees even though the trust has been taken over by the Endowment Department.

13. With this direction the appeal stands allowed. No costs.