(2007) 12 AP CK 0050

In the Andhra Pradesh High Court

Case No : Contempt Case No. 862 of 2007

Berry Anasuyamma	APPELLANT
Vs	
Sri S. Sunder Kumar, Commissioner, Hindu Religious Endowments Department, Sri K. Ramachandra Mohan, Deputy Commissioner, Endowments Department and D. Vishnuvardhan Prasad, Inspector, Endowment Department	RESPONDENT

Date of Decision : 18-12-2007

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 — Section 6, 65(1), 65(4), 66(1)

Citation : (2007) 12 AP CK 0050

Hon'ble Judges : P.S. Narayana, J

Bench : Single Bench

Advocate : T.D. Pani Kumar, for the Appellant; G.P., for the Respondent

Judgement

P.S. Narayana, J.—This Contempt Case is filed praying for a relief to punish the respondents for their wilful disobedience of the orders made by this Court on 10.09.2007 in W.P.M.P. No. 24289 of 2007 in W.P. No. 18884 of 2007 and pass such other suitable orders.

2. Sri T.D. Phani Kumar, learned Counsel representing the petitioner, had taken this Court through the order made in W.P.M.P. No. 24289 of 2007 in W.P. No. 18884 of 2007, dated 10.09.2007, and had explained how the said order had been wilfully disobeyed by the respondents.

3. Learned Government Pleader for Endowments had taken this Court through the respective counter-affidavits filed by respondents 2 and 3 as well and would maintain that in the facts and circumstances of the case, the respondents had not violated the orders made by this Court.

4. This Court ordered notice before admission on 27.09.2007. On 22.10.2007, the contempt case was admitted as against R.3. On 29.10.2007, R.3 was present before the Court. The attendance of R.3 was dispensed with, until further orders.

5. The petitioner is a retired Scientific Officer in Ministry of Food and Agriculture, Government of U.K., Toliworth, Surrey at England. She came back to India in the year 1974, and purchased a land to an extent of 1842 square yards in Sy.No. 38 of Chinna Waltheru, Visakhapatnam, through a sale deed, dated 07.01.1975, and registered in the office of the Joint Registrar, Visakhapatnam, as document No.63/75, from the Town Planning Trust, Visakhapatnam, for the purpose of constructing a temple therein, and the said sale deed had been placed before the Court. Thereafter, the petitioner constructed Sri Venkateswara Swamy temple with her own funds, and had been maintaining the temple with her pension and retirement benefits and the petitioner never asked any donations from the public to maintain the temple. Specific stand had been taken that Sri Venkateswara Swamy temple is purely a private temple constructed by the petitioner. Since construction of the temple, the petitioner never made any payments to the respondents as contribution, and at the same time, the respondents never interfered with the temple activities of administration and never served any type of notice under the Andhra Pradesh Charitable Hindu Religious Institutions and Endowments Act, 1987, Act 30 of 1987 (hereinafter referred to as "the Act", for the purpose of convenience).

6. It is also stated that the earnings of the temple are less than Rs.3,000/- per month, and as such, she had never maintained the accounts. Further, specific stand had been taken that the temple in question was never identified by the respondents. However, respondent No. 3 on 17.08.2007 without any right whatsoever entered the temple and issued two letters in Rc.No. 100/2007, dated 17.08.2007, and thereby, on 18.08.2007, he forcibly obtained the signature of the petitioner and evicted her from the temple, without giving any opportunity to submit her reply to the aforesaid letters. In such circumstances, the petitioner approached this Court by filing W.P.No.18884 of 2007. In W.P.MP.No.24289 of 2007, this Court made the following order:

Learned Assistant Government Pleader request time to file counter-affidavit. In the light of the facts and circumstances explained in detail in the affidavit filed in support of the writ petition, there shall be interim stay as prayed for until further orders.

It is stated that the petitioner obtained a copy of the interim order on 19.09.2007 and the same was submitted to the respondents. The Executive Officer, who has been high-handedly appointed to the temple by the respondents, did not handover the temple. Without complying with the orders, keeping the said orders in abeyance, the respondents approached this Court by filing vacate application raising frivolous allegations. Hence, this Contempt Case was filed.

7. Though separate counter-affidavits had been filed by 2nd and 3rd respondents, substantially the stand taken by both of them, being the same, it may be appropriate to have a glance at the contents of counter-affidavit of the 3rd respondent.

8. The contentions of the petitioner that she purchased an extent of 1842 square yards in Sy.No. 38 of Chinawaltair, Visakhapatnam, through a sale deed, dated 07.01.1975, for the purpose of constructing a temple therein; that she constructed the Venkateswara Swamy Temple with her own funds; that she is maintaining the temple with her pension and retirement benefits and that she never offered any donations from the public for maintaining the temple, had been denied and they are invented for the purpose of the contempt case. It is submitted that the petitioner is collecting the following rusums in the temple, form the visiting devotees.

The petitioner had swindled the above income without rendering accounts to the Department. In the letter, dt. 18.8.2007, she herself had admitted that she had not rendered any accounts for the income realized from the temple and she requested the 3rd respondent to take possession of the temple, due to her old age. Accordingly, the 3rd respondent had submitted a report to the 2nd respondent. Considering the request of the petitioner, and the circumstances reported by the 3rd respondent, the management of the subject temple was entrusted to Sri Ch. Srinivasa Rao, Manager, Sri Vigneswara Swamy Temple, by the 2nd respondent vide orders in Rc.No. A1/4989/2007, dt. 18.8.2007. Accordingly, the petitioner had handed over charge of the temple to the Manager appointed for the purpose, and thus, the Manager, was managing the affairs of the institution by maintaining proper accounts, duly depositing all the collection into S.B. Accounts of the temple to the utmost satisfaction of the devotees of the temple in question. The petitioner suppressing the above facts filed the present petition before this Court.

9. It is submitted that the subject temple is a public religious institution initially published u/s 6(c)(ii) of Act 30/87 in the year 1993 and later, reclassified and published u/s 6(b)(ii) of Act 30/87 in the year 2006 vide Commissioner''s orders in Rc.No. J3/791/2006, dt. 21.1.2006. In addition to the main temple i.e., Sri Venkateswara Swamy Temple there are 13 other sub-temples of different deities in the premises. Several tickets were introduced for different sevas such as darsanam, abhisekhams, udyapanas, monthly pooja and prasadams etc., and that the main temple along with other 13 sub-temples are provided with hundials, totalling 8 in number, and the income derived from the above tickets and hundi collections are the main sources of income of the subject temple. Hence, the contention of the petitioner that she was maintaining the temple with her own funds without collecting any donations from the public is not true and correct.

Further, the contentions that Sri Venkateswara Swamy Temple is purely private temple constructed by the petitioner; that she was maintaining the same with her own funds to render service to the God; that since construction of the temple, she never made any payments to the respondents as contribution and that at the same time the respondents never interfered in the temple activities of administration and never served any type of notice to her under the provisions of the Act, had been denied.

10. It is also averred that the subject temple was published initially u/s 6(c)(ii) of Act 30/87, and as such, the same is not a private temple, but is a public religious temple and the said publication was never questioned by the writ petitioner. It is submitted that demand notices were issued by the Commissioner of Endowments Department, A.P., Hyderabad, u/s 66(1) read with Section 65(1) and (4) of the Act, several times, to the trustee of the subject temple for payment of contribution to Endowments Administration Fund and Audit fees to the Government. She had paid contribution and audit fee due to the department. She also used to file income returns of the subject temple at the same time. Subsequently, she failed to furnish income returns and also failed to pay the amounts towards Common Good Fund since 1993-94 and contribution to Endowments Administration Fund and Audit Fee since 2004-2005 to till date, in spite of several demands made by the department.

11. Further, the averments made in paras 5, 6 and 7 of the affidavit filed in support of the contempt case also had been denied. It is further averred that the petitioner had totally failed to submit budget estimates and income returns besides failure to pay out standing arrears of contribution to Endowments Administration Fund, Audit Fee and Common Good Fund and also when the petitioner had made attempts to sell away a part of temple premises unauthorisedly, the Assistant Commissioner, Endowments Department, Visakhapatnam, had addressed a letter to the Joint Sub-Registrar, Visakhapatnam not to effect any registration of sale of lands or alienation belongs to the subject temple. It is also found that she was not rendering any accounts for the income realized and the hundials of the temple was opened by her with the assistance of a clerk by name P. Satyanarayana.

12. It is also submitted that when the respondent visited the temple and insisted the petitioner for rendition of accounts, she herself expressed her willingness to handover the temple to the department for its better management. She also gave a letter, dt. 18.8.2007, admitting that she had not maintained accounts for the income realized and also in a similar letter dt. 23.10.2000 to the Commissioner, Endowments Department, Hyderabad, she stated that in view of her age and other responsibilities, she felt it would be appropriate to merge the temple in Pushpagiri Mutt with a faith and belief that temple would have proper maintenance. According to her letter dt. 18.8.2007, the 3rd respondent had submitted report to the 2nd respondent. It is submitted that in view of the circumstances reported by the 3rd respondent, in the interest of the public service and better management, the Manager, Sri Vigneswara Swamy Temple, Main Road, Visakhapatnam, was kept in full Additional Charge to the subject temple vide proceedings in Rc.No. A1/4989/2007 dt. 18.8.2007 of the Deputy Commissioner, Endowments Department, Visakhapatnam. Accordingly, the petitioner had handed over charge of the temple to the Manager.

13. When the Manager approached the petitioner on 18.8.2007, she had handed

over the articles mentioned in the charge list and since then, the temple was under the management of the Manager appointed. A copy of the charge list had been placed before this Court. But later on, for unknown reasons, she filed the present writ petition misrepresenting the facts. The petitioner herself had expressed her willingness way back in the year 2000 and also on 18.8.2007 to handover the temple to the department for its better management and accordingly, handed over the same to the manager appointed. As such, the contention of the petitioner alleging the illegal trespass of the 3rd respondent and further stating that due to the political pressure, the respondents and the police had not initiated any steps to give back the temple to the petitioner is totally incorrect and untenable.

14. It is further stated that when it was found that the petitioner failed to discharge her duties faithfully as a trustee and when she started misappropriating the temple amounts and totally failed to submit budget estimates and income returns besides failure to pay outstanding arrears of statutory payments under the Act and not rendering any accounts for the income realized through hundials, pooja tickets, prasadam etc., the 2nd respondent considering the request of the petitioner and the recommendations of the 3rd respondent and in the interest of the temple for its better management, had rightly appointed the Manager of Sri Vigneswara Swamy Temple, Visakhapatnam in full additional charge of the subject temple.

15. Further, it is stated that the interim orders had been received on 10.09.2007 and the 3rd respondent had taken immediate steps to bring the correct facts before this Court and further, had taken a specific stand that the respondents had not flouted the orders of this Court and further, made a request that in the event of this Court coming to the conclusion that the 3rd respondent committed contempt, the said respondent offers unconditional apology.

16. It is, however, brought to the notice of this Court that the direction issued by this Court had been substantially complied with. May be for the reason that vacate application had been moved, there was some delay. However, in the light of the respective stands taken by the parties, since the delay, if any, being not deliberate, inordinate or wilful, this Court is of the opinion that no orders need be passed in this Contempt Case.

Accordingly, the Contempt Case is hereby closed.