(2001) 06 AP CK 0105

In the Andhra Pradesh High Court

Case No : Writ Petition No. 16535 of 1998

D.V. Subba Reddy and Others — APPELLANT

Vs

Tirupati Municipality and Another — RESPONDENT

Date of Decision : 15-06-2001

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 — Section 121
Andhra Pradesh Municipalities Act, 1965 — Section 81, 88

Citation : AIR 2001 AP 464 : (2002) 2 ALD 691

Hon'ble Judges : S.R. Nayak, J;S. Ananda Reddy, J

Bench : Division Bench

Advocate : M.V.R. Reddi, for the Appellant; K. Bathi Reddy, (for No. 1) and Raghavendra Reddy, (for No. 2), for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—Heard the learned counsel for the petitioners and Mr. K. Bathi Reddy, learned Standing Counsel appearing on behalf of the respondent-Municipality.

2. The petitioners are the residents of Bairagipatteda village, Avilala Gram Panchayat. Tirupati Rural Mandal Chittor District. In this writ petition, the petitioners have sought for a Mandamus declaring that the Tirupati Municipality, Tirupati - the first respondent herein has no jurisdiction to collect property tax from the petitioners and to pass such other order or orders as may be just. This relief is sought on the following factual assertions;

The case of the petitioners to put it briefly is that the petitioners are all employees and ex-employees of Tirumala Tirupati Devasthanams (for short ''the TTD''). During, 1986-87 the administration of TTD had purchased a locality known as ''Bairagipatteda'' comprising the land bearing Survey Nos. 241/1, 2 and 3 of Avilala village from the Endowments Department. Subsequently, the TTD, after carving out the plots in the above land, has allotted 675 plots, each admeasuring 0.05 cents to the employees under the scheme called ''own your house scheme'' framed by the administration of TTD. According to the petitioners, the TTD collected a sum of Rs. 98,18,100-00 from the allottees. The said amounts were collected from the employees in terms of the proceedings issued by the Executive Officer, TTD in his proceedings Roc. 155/Dl/(S)/EE3/92, dated 6-7-1992 towards the developmental works including the formation of roads, construction of drains, water supply and electrical installation works for the Colony in Bairagipatteda village. After collecting such a huge sum, the TTD executed the developmental works. When the matter stood thus, the petitioners allege that the first respondent-Municipality demanded the property tax from the petitioners payable under the provisions of the Andhra Pradesh Municipalities Act, 1965 (for short ''the Act''). Hence, this writ petition praying for the relief already noted above.

3. The learned counsel for the petitioners would contend that since the administration of TTD has already collected a sum of Rs. 98,18,100/- towards the developmental works, it is totally impermissible for the respondent-Municipality to demand the property tax payable in terms of the Act. In support of this submission, the learned counsel would draw our attention to an order of the Government in G.O. Ms. No. 943, Revenue (Endowments-111) Department, dated 14-9-1992. That order reads as under :

"In the circumstances reported by the Executive Officer, Tirumala Tirupati Devasthanams, the Government accept the proposal contained in his letter read above and hereby accord permission to take maintenance works such as Electrical, Water supply, roads, sanitary works etc., as welfare measure for a period of five years and to recover reasonable amount towards maintenance charges from each house as resolved by the Board of Trustees, Tirumala Tirupati Devasthanams in its Resolution No. 155, dated 28-5-1992 subject to the condition that an undertaking is taken from the Associations of Tirumala Tirupati Devasthanams Employees, who represented for the maintenance, that they will ensure the payment of charges to the Tirumala Tirupati Devasthanams on regular basis.

The Executive Officer, Tirumala Tirupati Devasthanams shall take necessary further action in the matter accordingly."

4. A simple question that arises for our consideration and decision is whether the alleged demand made by the Municipality is justified and whether it is within the four corners of the statute, i.e. the Act.

5. The power of the Municipality to levy the tax and collect the tax by virtue of the power granted to it u/s 81 of the Act is not disputed before us and it cannot be disputed. Section 81 of the Act empowers the Council of the Municipality to levy property tax among other things. Section 88 of the Act deals with ''general exemptions''. u/s 88 of the Act, the Council of the Municipality has, undoubtedly, the power to grant exemption. It is nobody''s case that the Municipality itself has

granted exemption as regards the petitioners. The contention of the learned counsel is essentially based on the G.O. dated 14-9-1992. This order of the Government is of no help to the petitioners in any way. We say this because the Government is not armed with any power under the provisions of the Act to grant exemption. It is the Council alone, which is the donee of the power u/s 88 of the Act, to exercise that power and none else. The learned counsel.'' however, would attempt to trace the authority of the Government to issue G.O.Ms. No.943, dated 14-9-1992 through Sub-section(1) of Section 121 of the A,P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short ''the Endowments Act''). It is a totally misconceived submission, if we may say so. Section 121 of the Endowments Act deals with the Government''s power to revise the orders made by the Board or the Commissioner in respect of any administrative or quasi-judicial decision taken. Be that as it may, even assuming that by virtue of the power u/s 121 of the Endowments Act the Government can exercise that power, We are at loss to understand how that power could be Invoked by the Government to exempt the payment of property tax liable to be imposed on the petitioners by virtue of the power u/s 81 of the Act. No case is made out by the petitioners to restrain the Municipality from collecting the tax. If the Act grants power to levy the tax and collect the tax, the Court cannot restrain the Municipality from collecting the tax. If as claimed by the petitioners, huge sum of money is collected from them by the administration of the TTD for developmental activities and the petitioners are entitled to seek exemption from the payment of property tax, it is always open for them to move the Municipal Council to grant exemption by virtue of the power granted to it u/s 88 of the Act.

6. in the result, we dismiss the writ petition. No order as to costs.

