
(1998) 11 AP CK 0061

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12954 of 1996

E. Venogopal Chetty

APPELLANT

Vs

Dist. Collector, Chittoor District and others

RESPONDENT

Date of Decision : 19-11-1998

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 80
Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Constitution of India, 1950 — Article 226

Citation : (1999) 1 ALD 114 : (1999) 1 ALT 80

Hon'ble Judges : B.S. Raikote, J

Bench : Single Bench

Advocate : Mr. C. Ramachandra Raju, for the Appellant; Government Pleader for Revenue, Mr. M.V. Suresh, Mr. V. Jogayya Sharma, for the Respondent

Judgement

1. This writ petition is filed for a writ of Mandamus directing the respondents to implement the order of the Inam Deputy Tahsildar, Chandragiri passed in his proceedings ROC No.3901 of 1959 dated 19-4-1961 in so far as it relates to the petitioner's land measuring Ac.5.18 cents in TS No-32 and a further extent of Ac.7.00 in S.No.302 of Tirupathi Revenue Village, Timpathi Urban Mandal, Chittoor District. The petitioner sought such direction against the official respondents, namely the District Collector, Chittoor District and the Mandal Revenue Officer, Tirupathi Urban Mandat, Timpathi, Chittoor District. Later on an application filed by the proposed respondents under Order 1, Rule 10 CPC, they were impleaded as respondent Nos.3 and 4 to the writ petition vide order dated 8-7-1998.

2. hi the affidavit filed in support of the writ petition, the petitioner stated that the petitioner was granted ryotwari patta to an extent of Ac.5.18 cents in TS No.32 and another extent of Ac.7.00 in S.No.302 of Tirupathi Urban Mandal, Chittoor District, under the Inams Abolition Act in proceedings Roc.No.3901 of 1959, vide order dated 19-4-1961. He stated that the said ryotwari patta was

granted in favour of the petitioner after due enquiry and after perusing all the relevant records. The petitioner was in lawful possession and enjoyment of the above said land and against the said order dated 19-4-1961 passed by the Inams Deputy Tahsildar, no appeal was preferred and as such, the said order became final. But the said proceedings dated 19-4-1961 were not being implemented by the official respondents 1 and 2 inspite of several representations made by the petitioner and in the those circumstances, the petitioner had earlier filed WP Nos.2783 of 1992 and 1939 of 1992 along with other persons before this Court for implementing those proceedings. In the said writ petitions, the official respondents did not file any counter and ultimately this Court vide order dated 27-1992 disposed of WP No,2783 of 1992 and by another order dated 15-4-1993, disposed of WP No.1939 of 1992, directing the official respondents to consider the representation of the petitioner and others for implementing those proceedings of the Inams Deputy Tahsildar dated 19-4-1961 in proceedings Roc. No.3901 of 1959. Inspite of the representations filed by the petitioner in the month of May, 1996 for implementation of the said orders of this Court, the official respondents have not implemented the same. From this it follows that the official respondents are not going to implement the said proceedings, unless there is a positive direction by this Court. The proceedings are of the year 1961 and due to the inaction on the part of the respondents, the petitioner is deprived of his legal right to get his name incorporated in the revenue records and as such, the petitioner is put to great loss and hardship. Accordingly, the petitioner prayed as I have already stated above, for implementing the order of the Inams Deputy Tahsildar, Chandragiri dated 19-4-1961 in proceedings Roc. No.3901 of 1959, in respect of the lands for which the petitioner has been granted patta under Inams Abolition Act.

3. By filing a counter, the official respondents denied the allegation made by the petitioner. In the counter, it is stated that the land Sy.No.302 to an extent of Ac.78.44 cents is classified as Inam Dry in Tirupathi (non-municipal) village and there is also an entry that the said land is converted into Government dry vide orders under the Inams Abolition Act in Roc. No.3901 of 1959 dated 19-4-1961. The Inam "B" Register reveals the names of Panguluru Balaguru Natham Setty, Panguluru Ramaswamy Setty and Kuppu Ramaswamy Setty in respect of S.No.302 with an extent of Ac.78.44 cents in Inam Patta No.2927 and the said entries further shows that in terms of the Inam Abolition Act and in pursuance of the proceedings in Roc. No.3901 of 1959 dated 19-4-1961, the lands in S.No.302 measuring Ac.38.25 cents, in S.No.719 Ac.14.43 cents, in S.No. 720 Ac. 11.33 cents and in S.No.721 Ac.14.43, in all Ac.78.44 cents were converted into the Government dry lands. It is further stated that the land S.No.302 has been subdivided and (he remarks were carried out by the Inams Deputy Tahsildar himself on 18-6-1961 and in these circumstances, the case of the petitioner that himself and P. Subrahmanyam Setty were granted Ac.7.00 and Ac.38.25 cents respectively in S.No.302 is false, In fact, WP Nos.2783 of 1992 and 1939 of 1992, this Court disposed of by directing official respondents to consider the

representation of the petitioner in accordance with law. Meanwhile, there was a suit filed by one P. Veeraswamy in OS No. 102 of 1992 on the file of the Additional Subordinate Judge, Tirupathi claiming title over the land in S.Nos.296 and 302 of Tirupathi, contending that Sri Papauguluru Kurummaswamy has purchased the land from his elder brother and from one of the inam pattadars, Sri P. Balgurunadham Setty and also from Smt. Panguhnt Ponnamma w/o Chenchai and as such he became the owner of 3/4th share in Sy.No.302 out of Ac.78.44 cents along with S.No.296 measuring Ac.4.27 cents etc. The Collector Chittoor has filed a written statement in that suit stating that the said property said to be owned by late P. Kuppuramaswamy Setty vested with the Government under the Inams Abolition Act, since he died intestate and issueless. The said suit is pending before the Subordinate Court with respect to the same S.No.302 of Tirupathi. In the counter it is further stated that regarding T.S. No.32, the petitioner was never granted patta and the said land is classified as Government Dry in the Inam "A" register of Tirupathi and as such the principle of Inam tenure could not apply to the land, and the said land now is under the occupation of S.V. Government. Polytechnic College and the claim of the petitioner is baseless. It is further stated that the documents submitted by the petitioner are fabricated and bogus and the petitioner was not granted any patta by Inams Deputy Tahsildar in the year 1961 or at any point time as per records. Therefore, the question of implementing the said order does not arise.

4. In the additional counter, the 2nd official respondent, Mandal Revenue Officer, Tirupathi further contended that in pursuance of the directions of this Court in WPMP No.2361 of 1992 in WP No.1939 of 1992 dated 2244992, the predecessor in office issued proceedings dated 3-5-1992 vide Roc.A/ 657/90, requesting the petitioner to file the original order in the proceedings Roc.No.3901 of 1959 dated 194-1961 of the Inams Deputy Tahsildar, Chandragiri or the certified copy of the said order. The petitioner and some others represented by K. Venugopal General Power of Attorney, filed a petition on 30-5-1992 through his Counsel Sri M. Mohan Raju, Advocate, duly enclosing the photostat copies of the proceedings of the Inams Deputy Tahsildar, Chandragiri, purported to have been signed by Sri G.M. Durgiah Naidu vide proceedings Roc. No.3901 of 1959 dated 19-4-1961. In the said representation, it was mentioned that the said K Venugopal Setty was granted an extent of Ac.7.00 cents in S.No.302 and in support of his contention, the proceedings copy of Roc. No.3901 of 1959 dated 194-1961 of the Inam Deputy Tahsildar, Chandragiri purported to have been signed by G.M. Durgiah Naidu was enclosed. At that point of time, the petitioner did not seek implementation of the order in the writ petition, in respect of TS No.32, but he sought the implementation of the ryotwari patta to an extent of Ac.7.00 in S.No.302 alone. On 25-3-1993, the writ petitioner approached the Collector, Chittoor with a representation seeking implementation of the patta for an extent of Ac.7.00 in S.No.302 of Tirupathi on the basis of the proceedings dated 19-4-1961. Along with the said representation, he filed proceedings of the Inams Deputy Tahsildar, Chandragiri in Roc. No.3901 of 1959 dated 194-1961,

purported to have been signed by Sri T. Sundararamaiah, and also the orders dated 154-1993 passed by the High Court in WP No.1939 of 1992 and ryotwari patta in Form VIII. Thus, the petitioner filed a copy of one order dated 194-1961 vide proceedings Roc. No.3901 of 1959 said to have been issued by Sri T. Sundararamaiah, before the Collector and the same proceedings Roc. No.3901 of 1959 dated 194-1961 said to have been issued by G.M. Durgiah Naidu before the Mandal Revenue Officer. From this it follows that Sri G.M. Durgiah Naidu and Sri T. Sundararamaiah have signed the same order dated 194-1961 vide proceedings No.3901 of 1959 on the same date and regarding the same piece of land and this would be impossible and accordingly it was felt that the petitioner produced forged orders by seeking implementation of those orders in the revenue records. Suspecting the genuineness of such documents filed by the petitioner, the predecessor to respondent No.2 referred the matter to the Collector, Chittoor for confirmation before taking the decision for implementing the orders purported to have been passed by Inams Deputy Tahsildar, Chandragiri and after thorough examination, the Joint Collector, Chittoor vide proceedings NO.B9/10868/92 dated 10-2-1993, cancelled the certified copies granted in CA No.40 of 1987 dated 23-11-1987 and further held that the said order said to have been passed by former Inams Deputy Tahsildar, Chandragiri in Roc. No.3901 of 1959 dated 19-4-1961 is fabricated. The predecessor to respondent No.2 in obedience to the direction issued by this Court vide order dated 15-4-1993 in WP No. 1939 of 1992 received in the office on 31-5-1993, thus had referred the matter to the Collector for enquiry and after receiving the order from the Joint Collector dated 10-2-1993, in proceedings No.B9/1 0868/92, the same was communicated to the petitioner. In these circumstances, it is further stated that the allegation of the petitioner that official respondents did not pass any orders as directed by this Court in the earlier writ petitions is not correct. It is further submitted that no recorded evidence was produced before the 1st or 2nd respondents that the Inams Deputy Tahsildar, Chandragiri has granted ryotwari patta in respect of both the lands in TS No.32 and S.No.302 of Tirupathi. In fact, in the earlier writ petition in WP No.1939 of 1992, filed by the petitioner, no mention was made regarding TS No.32 and he never produced documentary evidence that the ryotwari patta was granted in respect of the said proceedings Roc. No.3901 of 1959 dated 194-1961 of Inams Deputy Tahsildar, Chandragiri, The petitioner now has come up with a fresh pleadings that he was also granted ryotwari patta for an extent of Ac.5.18 cents in TS No.32 of Timpathi by the said order. The additional counter further stated that in pursuance of the direction of this Court dated 24-4-1998, in the present writ petition, the 2nd respondent was directed to produce the proceedings Roc. No.3901 of 1959 dated 19-4-1961 of the office of the Mandal Revenue Officer, Chandragiri and accordingly the file bearing No.3901 of 1959 containing pages I to 230 and the same was handed over to this Court. The said proceedings were perused by the present respondent No.2 again and the said proceedings were found to be forged for the following reasons, which are extracted as under for immediate reference:

"(1) The proceedings signed in the name of T. Standara Ramaiah was replaced by correcting the name of G.M Durgaiah Naidu.

(2) In the subject matter of the proceedings the land in S.No.302 of Tirupathi indicated as located in Chittoor Taluk instead of Chandragiri Taluk,

(3) The decision of the Inam Deputy Tahsildar, Chandragiri u/s 3(3) of the Inam Abolition Act, 1956 was stated to be published on 22-10-1959 as per the proceedings available in the file whereas the District Gazette with pages 1 to 32 published under dated 20-1-1960 is actually available in the file. Thus there is controversy with regard to date of publication of the District Gazette itself.

(4) The original records such as the extracts of (I) IFR, (2) Inam-B Register (3) RSR (4) Title deed No.2927 (5) agreement of sale said to have been produced by the petitioner are not forthcoming in the file.

(5) Inam-B register with TD No.2927 as stated in the proceedings of the Inams Deputy Tahsildar, Chandragiri the inam stands in the name of (1) Panguluru Nalagurunatham Chetty, (2) Panguluru Ramaswami Chetty (3) Panguluru Kuppu Ramaswamy Chetty and (4) Donnipaddu Vittoba Rao. Whereas the original Inam "B" register of Tirupathi reveals that entries pertaining to the names of 1 to 3 alone are recorded and the name of Viitoba Rao is not recorded. Thus there is variation with regard to mention made in the orders of the Inams Deputy Tahsildar, Chandragiri \\\with reference to actual entries of the Inam-B Register.

(6) At page No.156 of the file, no date has been indicated in Form V requesting the appearance of the applicant seeking ryotwari patta and to adduce evidence. Thus no enquiry could be conducted without indicating a specific date for enquiry. Thus the Form V available in the file is a forged one.

(7) Some of the Form V. notices available in the file bears signatures of the Inams Deputy Tahsildar and some bears a fascimile like thing. The Inams Deputy Tahsildar is supposed to sign in every Form V before issue and therefore there is a contradiction of the issue."

On the basis of the above reasons, it was contended that the petitioner lias submitted fabricated and bogus documents and in feet, the petitioner was never granted any patta by the Inams Deputy Tahsildar in the year 1961, or at any point of time as per the records and, therefore, the question of implementing the same does not arise. On the basis of these counters, the official respondents prayed for dismissal of the writ petition.

5. The private respondents have not filed any separate counters in addition to the implead petitions, in which they denied the case of the petitioner, by contending that the lands claimed by the petitioner arc the lands of the Panguluri Seethammagari Arya Vysya Dharma Satrain (in short "Dharma Satram") and the said Dharma Satram filed a suit in OS No. 132 of 1986 and obtained a permanent injunction restraining the defendants 1 to 6, 8 and 9,. their men or anybody, from trespassing or encroaching the schedule property. Against the said

judgment and decree, an appeal filed by the defendants in AS No.421 of 1992 before this Court is pending and this Court refused to suspend the decree. In another suit in OS No. 102 of 1992, filed by P. Veera Swamy, he has impleaded the writ petitioner Sri E. Venugopala Chetty and also the Dharma Satram, seeking declaration of title to the said property. The suit schedule lands includes S. No.302. Vide order dated 22-9-1992, the Subordinate Judge, Tirupathi, by noticing the judgment in OA No. 132 of 1986 and also the judgment of this Court refusing to grant the stay of the decree in OS No.132 of 1986, dismissed the injunction petition and the suit in OS No. 102 of 1992 is still pending before the Subordinate Judge, Tirupathi. It is further stated that when the members of the previous Trust Board in collusion with the third parties started executing the sale-deeds with respect to the lands belonging to Dharma Satram, without permission u/s 80 of Andhra Pradesh Charitable and Hindu Religious Institutions Act, 1987, one of the trustees of the present Board Sri Yerukalaiah filed a writ petition in WP No. 14584 of 1993 for protecting the interests of the Dharma Satram and the matter was ultimately decided by the Division Bench consisting of Justice Linga Raj Rath and Justice D. Reddeppa Reddy in Writ Appeal No.1 of 1996 and the Division Bench held that the sale-deeds executed in favour of the third parties were null and void and consequently directed the Commissioner of Endowments to protect the interests of the properties belonging to Dharma Satram. But the present writ petition has been filed suppressing all these facts. A similar application was also filed by another proposed respondent by name Panguluru Seethamma Tirumala Charities Development Trust, Tirupathi, more or less contending the same. As I have already noted above, the said proposed respondents were brought on record as respondents 3 and 4 vide order dated 8-7-1998.

6. By filing a reply affidavit, the petitioner denied the allegations made by the official respondents in their counter. In the reply, the petitioner denied that he has fabricated any document, and stated that if at all the xerox copies produced by the petitioner before the 2nd respondent and the xerox, copies produced before the Collector were bearing the signature of Sri G.M. Durgiah Naidu and Sri T. Sundara Ramaiah, it is the fault of the District Collector, who has issued the certified copies and for that the petitioner is not responsible. The petitioner further stated that when one K. Lokanath Reddy was, being harassed by the official respondents by suppressing the proceedings of the Inams Deputy Tahsildar, the said Lokanath Reddy filed a criminal case in CC No. 160 of 1993 on the file of the III Additional Munsif Magistrate and sought the appointment of an Advocate-Commissioner to search the office of the Mandal Revenue Office, Chandragiri and accordingly the Mandal Revenue Office at Chandragiri was searched and original records of the proceedings of the Inarm Deputy Tahsildar were seized by the Commissioner and they were produced before the Magistrate and when the proceedings were in the custody of the III Additional Munsif Magistrate, Tirupathi, the petitioner obtained the certified copies of the proceedings of the Inams Deputy Tahsildar from the records and the said

certified copies are filed in the writ petition along with the material papers. The petitioner tracing the history of TS No.32 and S. No.302, contended that the lands in respect of which the petitioner is seeking implementation of the proceedings of the Inams Deputy Tahsildar is altogether different from the lands measuring to an extent of Ac.42.52 cents, alleged to belong to Dharma Satram and in fact the land measuring Ac.42.52 cents alleged to have been sold by Trust Board to others consist of other survey numbers, to an extent of Ac.35.00 in S.Nos.296, 719, 720 and 721 and partly Ac.7.00 in S.No.302 in which ryotwari patta was granted to private persons by the Inams Deputy Tahsildar, Chandragiri in his proceedings dated 19-4-1961 vide proceedings Roc. No.3901 of 1959. The additional reply affidavit farther states that the petitioner is filing herein xerox copies of the certificates issued by the District Collector, Chittoor relating to the Inam Fair Register, Inam B Register, and Resurvey Settlement Register to show the name of the predecessor of the petitioner's vendor as Inamdar in S.No.302 and TS No.32. He also stated that in two separate gazette notifications relating to S.No.302 on 22-10-1959 and in respect of TS No.32 on 20-1-1960 were published and the official respondents have been trying to mislead this Court and accordingly prayed for allowing the writ petition, and also prayed for taking action against them for contempt of this Court.

7. The petitioner also filed one affidavit dated 20-8-1998 stating that the land to an extent of Ac.7.00 in S.No.302 of Timpathi village of Chittoor District is different from the land belonging to Dharma Satram situated in the same survey number and the land belonging to the petitioner is situated outside the land belonging to Dhanna Satram.

8. Heard the Counsel for the petitioner and the Counsel for the official respondents and the impleaded respondents 3 and 4.

9. The learned Counsel appearing for the petitioner contended that due to the non-implementation of the proceedings of the Inams Deputy Tahsildar dated 19-4-1961, the petitioner is put to great loss and hardship and inspite of direction issued by this Court earlier, the official respondents have not considered his case. Therefore, it is fit case for taking action for contempt of Court. He further stated that it is the statutory duty of the authorities to implement the order of the year 1961 and as such, the petitioner is entitled for the relief he sought for implementing the said order. As against this, the Government Pleader for Revenue strenuously contended that the petitioner is not entitled to any relief, since he has not come to this Court with clean hands and he has filed this writ petition on the basis of forged and fabricated documents and he has suppressed the proceedings of the Joint Collector dated 10-2-1993, vide proceedings No. B9/10868/92 and on the basis of which his representation was considered, as directed by this Court and the petitioner has been communicated with those orders. He further submitted that by the said proceedings of the Joint Collector dated 10-2-1993, the alleged order for which the petitioner is seeking relief of implementation is held to be a bogus document. But in the writ petition,

no whisper is made regarding those proceedings. He further stated that in paragraph No.7 of the counter, the respondent No.2 has given detailed reasons, as to how the said order is forged and fabricated document. In fact, it is the petitioner who has committed contempt of this Court, in seeking relief by suppressing all these facts and as such, the writ petition is liable to be dismissed on this count alone. He further submitted that at any rate, there is inordinate delay and laches on the part of the petitioner. Even taking the approaching of the petitioner in WP No.1939 of 1992 and other writ petition, it is clear that the petitioner has approached this Court nearly after thirty years, since the order he seeks for implementation is of the year 1961 and in these circumstances, the writ petition is liable to be dismissed even on this count also. He further relied upon the judgment of the Supreme Court reported in *Sushil Kumar Mehta v. Gobind Ram Bohra* 1990 (1) APLJ 41, contending that the decree alleged to have been passed without jurisdiction over the subject-matter may be questioned at any time as being a nullity and nonest. He stated that in the instant case, there was no such decree or order in favour of the petitioner and the one produced by him is a fabricated document and as such, the respondents can successfully resist the same. As against this, the Counsel for the petitioner contended that the said proceedings of the Joint Collector dated 10-2-1993, vide proceedings No.B9/10868/92 was not referred to in the writ petition, because it simply cancelled the earlier certified copy, and not mentioning the said fact would not be material to the facts of the case. Therefore, there is no suppression on the part of the petitioner. He further contended that the delay in filing the writ petitions would not matter, because it is for the respondents to implement the same and as they have not implemented it, writ petition cannot be dismissed on the ground of laches.

10. The Counsel appearing for the private respondents contended that the petitioner cannot seek any relief over which the Dharma Satram is the owner and possessor. For that, the Counsel appearing for the petitioner filed an affidavit dated 20-8-1998 stating that he has not claimed any rights over the part of the land in S.No.302, over which Dharma Satram is the owner and possessor. However, the Counsel appearing for the private respondents contended that if the petitioner insists that he has got any right in S.No.302 as against the judgment of the Division Bench of this Court dated 4-10-1996 in WA No.1 of 1996, the filing of the said affidavit would have no consequence on the merits of the matter. He further contended that in the said writ appeal, this Court while considering the lands bearing S.Nos.296 and 302 measuring Ac.42.52 cents situated at Tirupathi, which were bequeathed in favour of Dharma Satram, held that all the sale deeds relating to the said land would be null and void and it further directed the respondents 1 and 2 therein to protect the interests of Dharma Satram. Thus, he contended that the extent of land in the writ appeal order, covers the disputed land in S.No.302 also. Therefore, no orders can be passed by the learned single Judge inconsistent to the said order of the Division Bench and accordingly, he prayed for the dismissal of the writ petition, if the

petitioner asserts any claim in respect of the land belonging to Dharma Satram.

11. From the pleadings of the parties and also from the contentions raised by the Counsels appearing for the respective parties, I find that there are few facts which are clearly admitted in this case. It is admitted that the Joint Collector, Chittoor vide his proceedings No.B9.10868/92 dated 10-2-1993 passed an order regarding the lands in dispute. The said order has not been referred to by the petitioner in the writ petition. It is also not in dispute that in WA No.I of 1996, vide judgment and order dated 4-10-1996, this Court cancelled certain sale-deeds pertaining to the lands in S.Nos.296 and 302, measuring in all Ac.42.52 cents, situated in Tirupathi by further directing the respondents 1 and 2 therein to protect those lands and the petitioner is not a party to this appeal. It is also not in dispute that the Dharma Satram filed a suit in OS No.132 of 1986 in the Court of Subordinate Judge, Tirupathi and obtained a decree in respect of the land to an extent of Ac.5.52 cents in S.No.302 of Tirupathi (one of the disputed lands in this case) against P. Veeraswamy and others vide judgment and decree dated 17-2-1992 and the said judgment being challenged in the appeal before this Court, is pending in AS No.421 of 1992. To this decree, the present petitioner is not a party. However, there is another suit in OS No. 102 of 1992 (filed by one of the defendants in OS No.132 of 1986 by name Ponguluri Veeraswamy) to the said suit, the present petitioner is a party as defendant No.9 and said suit OS No.102 of 1992 is still pending. Moreover from the order passed in the suit in OS No-102 of 1992, it appears that there was earlier an injunction order in favour of the plaintiff against all the defendants, but in view of the judgment and decree in favour of the present respondent No.4 in OS No.132 of 1986, the said injunction was vacated- Even though the petitioner is a party to OS No. 102 of 1992, the said fact is not disclosed in the writ petition.

12. Regarding the order of the Joint Collector dated 10-2-1993 in proceedings No.B9/10868/92, it is the case of the petitioner's Counsel that the said order was not referred to in the writ petition, because it simply held that the certified copies issued earlier were fabricated documents but he did not hold that the order dated 19-4-1961 passed in proceedings Roc. No.3901 of 1959 was fabricated and bogus one. Therefore, not disclosing the same in the writ petition would not tantamount to suppressing the said order, since the said order would be of no relevance for the purpose of relief prayed for in this writ petition, for implementing the order dated 19-4-1961 in proceedings Roc. No.3901 of 1959. However, the Counsel for the official respondents contended that the entire proceedings in Roc. No.3901 of 1959 was held to be bogus and fabricated, and not merely issuing the certified copies and therefore, the petitioner has suppressed it. In order to avoid further controversy, I think it appropriate to extract the relevant portion of the proceedings No.B9/10868/92 dated 10-2-1993 of the Joint Collector, Chittoor as under;

"The xerox copy of certified copy of the alleged order from the Inams Deputy Tahsildar, Chandragiri passed in Roc. No.3901 of 1959, dated 19-4-1961 wherein

the ryotwari patta is claimed to have been granted in respect of S.No.302 etc., in favour of D. Panduranga Rao and others, cannot be taken as an authenticated one. The above order of former Inams Deputy Tahsildar reveal that the patta was granted by M. Durgayya Naidu, Inams Deputy Tahsildar whereas the other 2 orders were passed by Sri T. Sundraramaih, Inams Deputy Tahsildar on the same date i.e., 19-4-1961. There will never be two Inams Deputy Tahsildars in the same post in the year 1961. It itself proves that the alleged orders issued by the Inams Deputy Tahsildar, issued during 1961 are fabricated/fake ones. As such it is evident that there was no possibility of passing two orders by Inanis Deputy Tahsildars on the same date, while in fact, there were no 2 Inanis Deputy Tahsildars employed in Chandragiri Taluk in the year 1961.

In the above circumstances, I am of the view that it is evidently clear and that the orders of former Inams Deputy Tahsildar, Chandragiri said to have been passed in Roc. No.3901 of 1959 dated 19-4-1961 are proved to be fabricated/bogus one. Hence the certified copies of the orders alleged to have been granted in CA No.41 of 1987 dated 23-11-1987, 11 of 1987 CA No.27 of 1987 and CA 40 of 1987, dated 23-11-1987 and issued from Collectorate, Chittoor arc hereby cancelled."

From the reading of the above order it is clear that the above order has got two limbs, namely (1) that the order of former Inams Deputy Tahsildar, Chandragiri said to, have been passed, in Roc. No.3901 of 1959 dated 19-4-1961, was proved to be fabricated/bogus one and (2) hence the certified copies of the orders alleged to have been granted in CA No.41 of 1987 dated 23-11-1987, 11 of 1987 CA No.27 of 1987 and CA No.40 of 1987, dated 23-11-1987 issued from Collectorate, Chittoor arc thereby cancelled. It is not in dispute that this order has been communicated to the petitioner. But the petitioner has not referred to this order in his writ petition. By this order of the Joint Collector dated 10-2-1993, it is clear that the proceedings, which the petitioner wants to be implemented in this writ petition in Roc. No.3901 of 1959 dated 19-4-1961 were held to be fabricated and bogus documents. It is also not in dispute that the said order of the Joint Collector has not been challenged by the petitioner in any writ petition or in any proceedings and the same has become final. From this it follows tliat the order which the petitioner wants to be implemented in this writ petition itself was held to be bogus and fabricated by the Joint Collector, Chittoor. The petitioner in all fairness should have revealed the existence ofthis order in this writ petition and by suppressing it, he requests this Court for implementing the said proceedings, which was already declared to be fabricated and bogus proceeding. If this order were to be disclosed to me earlier, I do not think that I would have called for the said proceedings from the office of the Mandal Revenue Officer, Chandragiri. vide my order dated 24-4-1998. After the said proceedings were called for by this Court, the Government Pleader for respondent No.2 sought the permission ofthis Court to look into those proceedings and accordingly, I permitted him to do so. Thereafter, respondent No.2 filed a detailed additional counter contending that the said proceedings dated

19-4-1961 vide proceeding Roc. No.3901 of 1959 is bogus and fabricated document for the seven reasons, which I have already extracted above. Those were also the reasons in substance given by the Joint Collector in his order dated 10-2-1993 in proceedings No. B9/10868/92, for holding the proceedings of the Inams Deputy Tahsildar in Roc. No.3901 of 1959 dated 19-4-1961, which the petitioner wants to be implemented, as fabricated and bogus document. The said order not being challenged, has become final. In that view of the matter, I do not think at this point of time, this Court could issue a writ, directing the implementation of the same order, which was held to be fabricated and bogus document, In these circumstances, it is not possible for the Court to direct the respondents for implementing the said orders.

13. The other important fact which I have to take into account at this stage, is the judgment dated 4-10-1996 passed by the Division Bench in WA No.1 of 1996. In the said writ appeal, the Division Bench of this Court, accepted the plea of the appellant -Sri Kanyaka Parameswari Devasthanam Trust Board, represented by its Chairman P. Mallikarjuna Chetty, that a philanthropist by name Smt. Panguluri Sethamma Established a Charitable institution called Smt. Panguluri Sethamma Arya Vysya Dharma Satram (referred to as Dharma Satram) for the benefit of Arya Vysya Community by bequeathing her properties, comprising a house and lands bearing S.Nos.296 and 302 measuring Ac.42.52 cents situated at Tirupathi in its favour under a Will dated 4-4-1928. The Division Bench further held that the land proposed to be sold out of the land Ac.42.52 cents by the members of the Trust was null and void and accordingly directed the respondents 1 and 2 therein to protect the property. I am noting the said judgment, because land in S. Nos. 296 and 302 also arise for consideration in this writ petition. In the proceedings of the Inams Deputy Tahsildar, Chandragiri dated 194-1961, vide proceedings Roc. No.3901/59, which the petitioner wants to implemented, the total extent of S.No.302 is shown as Ac.38.25 cents and the total extent of S.No.296 is shown as Ac.4.27 cents. Thus the total extent of both S.Nos.296 and 302 comes to Ac.42.52 cents, and the said extent is the one covered by the judgment and order of the Division Bench dated 4-10-1996 in Writ Appeal No.1 of 1996. From this it follows that the extent of land involved in the order of the Inams Deputy Tahsildar, which the petitioner wants its implementation, is thus already covered by the judgment and order of the Division Bench. In this view of the matter, if I direct for the implementation of the said order of the Inams Deputy Tahsildar, my order would definitely come in conflict with the judgment and order of the Division Bench dated 4-10-1996, which has also become final. Even for this reason also, the petitioner is not entitled to any relief in this writ petition.

14. As contended by the learned Counsels for the respondents, the petitioner has approached this Court nearly after thirty years and this fact is not denied. The contention of the Counsel for the petitioner is that, it is for the respondents to implement the same and there is inaction on their part. I should point out at this stage itself that if any person wants to assert his right against any other person,

on the basis of any order he should assert such rights as and when those rights accrue and in case of failure on the part of others not complying with the judgment and order, such person should approach the Court for implementation of such orders immediately, without sleeping over such rights for nearly thirty years for whatever the reasons. Even in case of a decree, the decree holder shall execute the decree within a period of twelve years from the date of the decree. If the judgment-debtor fails to comply with the decree within a period of twelve years for whatever the reasons, the decree becomes inexecutable after twelve years limitation under Article 136 of the Limitation Act, and no Court would enforce it. In the instant case, the petitioner has approached this Court after thirty years of the proceedings Roc. No.3901/59 dated 19-4-1961. Thus, there is inordinate delay and laches on the part of petitioner in approaching this Court, even taking that he approached this Court for the first time in WP No. 1939 of 1992. From this it follows that he did not move his little finger for nearly thirty years from 1961 to 1992. During these thirty years period, number of litigations have cropped up over the lands in this writ petition. As I have already stated above, in OS No. 132 of 1986, Dharma Satram has obtained a decree in S.No.302 and an appeal is pending before this Court in AS No.421 of 1992. It is also a fact that another suit filed by one P. Veeraswamy in OS No. 102 of 1992, to which the present writ petitioner is one of the defendants as defendant No.9, is pending. These facts, including an order passed by the Division Bench in WA No.1 of 1996 would show that lot of water has flown during all this period of thirty years. In the counter of the official respondents it is stated that there is a S.V. Government Polytechnic College in TS No.32 of Tirupathi, which is one of the disputed lands in this case. In these circumstances, it is not possible for this Court to grant the relief, assuming for the sake of argument that the said order of the Inams Deputy Tahsildar, Chandragiri is executable. Thus, I find that the writ petition is also liable to be dismissed on the ground of delay and laches.

15. Before parting with the case, I have to note that the petitioner claims to be a purchaser on the basis of an agreement of sale from the original inamdar by name Donnipadu Vittobarao. The learned Government Pleader for Revenue brought to my notice that in the original Inam B Register, the name of Donnipadu Viitobarao is not there and now the certified copy issued shows the name of Donnipadu Vittobarao. The petitioner could not get the certified copy of certain entry, which is not born out from the original record i.e., inam "B" register. He brought to my notice the inam "B" register, which I verified with the xerox copy of the certified copy produced by the petitioner. From the xerox copy of the certified copy produced by the petitioner, I find that the letters "Donnipadu Vittobarao" are entirely different from other letters of the other three inamdars and the same is inserted after the column is closed, as inamdar No.4. From this it follows that this certified copy showing the name of the alleged vendor of the present petitioner is not a genuine document. This was one of the reasons the official respondents assigned in their counter for holding that the order which the petitioner wants to be implemented is a bogus and fabricated document.

However, the learned Counsel for the petitioner submitted that the said certified copy has been issued by the office of the respondent No.2 and if there is any mistake in the certified copy, such officer should be blamed, but not the petitioner. From assessing the entire case, I find that there is something fishy in the matter and there is an attempt to fabricate the documents. How could there be any fabrication of the documents, at the instance of a person who is not interested ? The petitioner is interested in getting this land, as if it was inam land, and he has produced these documents to claim occupancy rights. At any rate, as I have already stated above, the Joint Collector has already declared the order, which the petitioner seeks for implementation, as a fabricated and bogus document, which order, the petitioner has wantonly suppressed in this writ petition. In this view of the matter, absolutely there are no bona fides on the part of the petitioner in invoking the jurisdiction of this Court under Article 226 of the Constitution of India, which is an extraordinary jurisdiction. It is an established principle of law that the person who invokes the jurisdiction of this Court under Article 226 of Constitution, must necessarily come with clean hands, In these circumstances, I feel it is a proper case to dismiss the writ petition, with certain exemplary costs. In similar circumstances, the Hon'ble Supreme Court in the decision reported in Municipal Corporation of Delhi Vs. Kamla Devi and another, , came down heavily on such attempt to overreach the process of Court by holding that such overreaching the process of the Court amounts to abuse of the process of law. In paragraph No.7 of the said judgment, the Supreme Court ruled as under:-

"The fact that Kamala Devi (plaintiff) chose to conceal the fact of her filing the appeal against the said assessment order is also indicative of the mala fides on her part.

.....

Once this Court is satisfied that Kamala Devi has abused the process of law and misused the legal system, the objections put forward by the respondents' Counsel are no consequence. This Court is entitled to act in such cases to prevent such abuse and misuse."

With the above observations, the Hon'ble Supreme Court awarded an exemplary costs in a sum of Rs.50,000/-, by observing at paragraph No.9 as under: -

"In view of their reprehensible conduct the respondents (legal representatives of Kamala Devi, who appeared in this Court as representing her estate) are directed to pay exemplary costs in a sum of rupees fifty thousand. Such practices ought to be put down with a stern hand so that others similarly minded may desist from indulging in similar acts."

16. For the above reasons, I pass the order as under:

Writ petition is dismissed with exemplary costs of Rs.5,000/-. The costs are payable to the official respondents within a period of eight weeks from the date

of this judgment.