

(2011) 07 KAR CK 0212

In the Karnataka High Court

Case No : W.A. No. 3531 of 2010 and Miscellaneous W. 9365 of 2010

Mr. S. Ravi

APPELLANT

Vs

Sri. Venkata Narasimhamurthy and Others

RESPONDENT

Date of Decision : 07-07-2011

Acts Referred:

Citation : (2011) 07 KAR CK 0212

Hon'ble Judges : N.K. Patil, J;Arali Nagaraj, J

Bench : Division Bench

Advocate : N. Krishnananda Gupta, for the Appellant; Madhu Murthy, for Kumar and Kumar for R1, Sangamesh G. Patil, AGA for R2 to R6, for the Respondent

Judgement

N.K. Patil, J.—The 11th Respondent-Appellant herein has presented this appeal, assailing the correctness of the impugned order dated 15/07/2010 passed by the learned Single Judge in W.P. No. 15049/2008, wherein, the Petitioner-first Respondent herein has assailed the correctness of the order dated 22.3.2004 vide Annexure-J passed by the Commissioner for Religious and Charitable Endowments.

2 The Petitioner first Respondent, assailing the correctness of the order dated 22.3.2009 passed by the Commissioner for Religious and Charitable Endowments, transferring the Barvardar rights in favour of the 11th Respondent Appellant herein has presented a Writ Petition before this Court in No. 15049/2008, contending that his father T. Venkataramanachar was the Archak of Sri. Prasanna Venkata Ramana Swamy Temple at Chikka Tirupathi, Malur Taluk, after his demise, his five sons, including the first Respondent herein succeeded as Barvardars. It is further contended by him that, for the convenience purpose, he and his brothers agreed to enter the name of Sri. T.V. Sheshachar, who is one of the brother as Barvardar. By the order dated 22.3.2004, the Commissioner for Religious and Charitable Endowments has transferred the Barvardar Rights from the name of Sri. T.V. Sheshachar to the name of 11th Respondent- Appellant herein who is his younger son. The said Writ Petition had come up for

consideration before the learned Single Judge, who in turn, after perusal of the material available on record and after hearing the parties, has disposed of the said Writ Petition with a direction to the third Respondent herein to consider the representations given by the first Respondent and his brothers vide Annexures- F and G dated 18.8.2001 and 24.12.2001 respectively, in accordance with law, by providing an opportunity to them, as expeditiously as possible and in any event not later than three months from the date of receipt of the copy of the said order. Further, the learned Single Judge has observed that while considering the representations submitted by the first Respondent and his brother vide Annexures -F and G, third Respondent herein shall not be influenced by the impugned order Annexure-J.

Being aggrieved by the order impugned passed by the learned Single Judge, 11th Respondent-Appellant herein felt necessitated to present this appeal.

3. We have heard the learned Counsel for both the parties.

4. The principal submission canvassed by the learned Counsel for the Appellant Sri. N.K. Gupta, is that, learned Single Judge is not justified in issuing a direction to the third Respondent herein to consider the representations vide Annexures-F and G dated 18.8.2001 and 24.12.2001 respectively, on the ground that, they themselves have given no objection before the Tahsildar when he has submitted his report and also before the Deputy Commissioner. In the light of the no objection given by the first Respondent and his brothers, Appellant has been appointed as Barvardar and therefore, the question of giving an opportunity to them does not arise. Therefore, he submitted that the said direction issued by the learned Single Judge cannot be sustained and is liable to set aside.

5. As against this, learned Counsel for the Respondents-inter-alia, contended and substantiated that the impugned order passed by the learned Single Judge is in strict compliance of the relevant provisions of the Act and Rules and with reference to the materials available on record. Further, she submitted that as on the date of passing of the order by the third Respondent herein vide Annexure -J, first Respondent and his brothers have already submitted their representations vide Annexures -G and F and the same have not been looked into or considered by the third Respondent herein and he has proceeded to pass the order unilaterally. Therefore, he submitted that the learned Single Judge is justified in issuing directions to the third Respondent to consider the same in accordance with law, without being influenced by the order at Annexure-J. Therefore, she submitted that interference by this Court is not called for.

6 After hearing the learned Counsel for both the parties, after careful perusal of the material available on file, including the impugned order passed by the learned Single Judge, we do not find any error of law, much less material irregularity committed by the learned Single Judge in issuing a direction to the third Respondent herein to consider the representations submitted by the first Respondent herein and his brother vide Annexures- F and G respectively, in

accordance with law, after affording reasonable opportunity to them, within a period of three months from the date of receipt of the copy of the said order. The said direction was issued by the learned Single Judge after thorough evaluation of the material available on file, specifically, taking into consideration that as on the date of passing of the order by the third Respondent herein, already the first Respondent and his brother have submitted their representations vide Annexures- F and G and the same were neither considered nor there is any whisper in the order dated 22.3.2004 passed by the third Respondent herein, and therefore, interference by this Court is not called for. Nor we find any good grounds as such made out by the Appellant herein to interfere with the same.

7. For the foregoing reasons, the appeal filed by the Appellant is disposed of, with a direction to the third Respondent to dispose of the representations submitted by the first Respondent and his brothers vide Annexures- F and G dated 18.8.2001 and 24.12.2001 respectively, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this judgment.

In view of the disposal of the appeal, the prayer sought by the Appellant in Misc.W.9365/2010 does not survive for consideration and hence, it is disposed of as having become infructuous. Ordered accordingly.