

(2009) 03 AP CK 0037

In the Andhra Pradesh High Court

Case No : C.R.P. No. 3375 of 2006 and A.S. No. 331 of 2006

Nukalapati Venku Reddy (Died) and Others

APPELLANT

Vs

The Assistant Commissioner, Endowments Department and
Bhagavan Sri Venkataiah Swamy Ashramam

Kaniseety Hariprasad, Patnam Jagannatham, K. Harigopal
and Pasupuleti Subrahmanyam Vs Bhagavan Sri Venkayya
Swamy Humanitarian Mission and Others

RESPONDENT

Date of Decision : 03-03-2009

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 1(3), 156, 2(17), 2(21), 2(23)
Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, Order 7 Rule 11, 92

Citation : (2009) 4 ALD 326 : (2009) 3 ALT 467

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : M. Venkata Narayana, in C.R.P. No. 3375 of 2006 and M.V.S. Suresh Kumar, in A.S. No. 331 of 2006, for the Appellant; G.P. in C.R.P. No. 3375 of 2006 and P. Sridhar Reddy and M.Y.K. Rayudu, in A.S. No. 331 of 2006, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The revision and appeal are interconnected. Hence, they are heard together. Briefly stated, the facts that gave rise to them are:

Sri Venkaiah Swamy was born at Nagulavellatur of Nellore District in the early years of 20th Century. Up to 20 years of age, his life was almost ordinary. At about that age, he went in to forest and spent a secluded and isolated life for about 30 years, doing penance. He surfaced thereafter with vast spiritual powers. Within a short time, many people were attracted by his teachings, and became his disciples. Over the time he came to be known as, Bhagwan Venkaiah Swamy. He went around many places, and at a later stage, made Golagamidi Village of Venkatachalam Mandal, Nellore District, as his abode.

2. An Ashram was established, and ultimately Bhagwan Sri Venkaiah Swamy attained Nirvana, on 28-08-1982. His Samadhi was developed into a place of worship. The maintenance thereof was not so much organized, though his disciples and devotees used to pay their respects, in many forms. A Society, in the name and style of Bhagwan Sri Venkayya Swamy Humanitarian Mission (for short "the Mission") was registered under the A.P. Societies Registration Act, in the year 1981. The Commissioner, Endowments appointed a fit person to the Ashram.

3. Challenging this, the Secretary of the Mission by name, Sri K. Bujjaiah, filed W.P. No. 7586 of 1993. The writ petition was dismissed on 29-10-1998, leaving it open to the petitioner therein, to avail the remedy under the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"). Though the said Bujjaiah did not pursue the remedies, 13 disciples of the Ashram filed O.A. No. 7 of 1999 before the Deputy Commissioner of Endowments, Guntur, u/s 87(1)(b) of the Act, with a prayer to declare that the Ashram is not a Mutt or Religious Institution, as defined under the Act, and thereby not covered by the provisions of that Act. It was pleaded that, Bhagwan Sri Venkaiah Swamy did not preach or practice any particular religion, and His teachings were mostly on humanitarian values. It was also stated that His disciples included, Hindus, Muslims and Christians, and in that view of the matter, the Ashram cannot be treated as a Religious Institution, or a Mutt.

4. Some of the followers of the Bhagwan filed O.S. No. I of 1995 in the Court of District Judge, Nellore, with a prayer to frame a scheme for the administration of the Ashram, u/s 92 of C.P.C. The pleadings in the suit were almost on the same lines as in O.A. No. 7 of 1999, except for minor details.

5. Through his order dated 19-01-2002, the Deputy Commissioner of Endowments dismissed the O.A., and held that the institution answers the description of Mutt, and thereby, it is covered by the provisions of the Act.

6. The petitioners in the O.A. filed A.S. No. 21 of 2002 before the Court of III Additional District Judge (Fast Track Court), Nellore, u/s 87(1)(b) of the Act against the order dated 19.01.2002 passed by the Deputy Commissioner of Endowments. The Appellate Court dismissed the appeal, through its judgment dated 28-04-2006.

7. Taking into account, the fact that the petition, filed u/s 87, in relation to the Ashram was dismissed, and that the same was affirmed in A.S. No. 21 of 2002, the Court of Principal District Judge, Nellore, dismissed O.S. No. I of 1995, on 06-06-2006. Even while dismissing the suit, holding that the Ashram is covered by the provisions of the Act, the learned District Judge directed certain arrangements for the administration of the Ashram.

8. C.R.P. No. 3375 of 2006 is filed against the judgment of the lower Appellate Court in A.S. No. 21 of 2002 u/s 91 of the Act. The plaintiffs in O.S. No. I of 1995 filed A.S. No. 331 of 2006.

9. For the sake of convenience, the petitioners in the C.R.P. No. 3375 and the appellants in A.S. No. 331 of 2006 are referred to as appellants; and the respondents in both the matters are commonly referred to as such, except where it is otherwise necessary.

10. Sri M. Venkatanarayana and Sri M.V.S. Suresh Kumar, learned Counsel advanced arguments in the Revision and Appeal, respectively. They submit that the Ashram, which was established during the lifetime of Bhagwan Sri Venkaiah Swamy, does not possess the characteristics of a religious institution or a mutt. According to them, the teachings of the Bhagwan and the rituals practiced at the ashram, either during His lifetime or after His Nirvana, reflected, mostly the humanitarian values. According to them, the devotees and followers of the Bhagwan or the visitors of the Ashram, were impressed by the service to the humanity, such as, provision of food to the hungry, medical, educational and other facilities to the needy. It is stated that facilities are also provided for meditation, nearby Samadhi. Learned Counsel submit that unless and until the Ashram answers the description of religious institution or Math, the arrangements contemplated under the Act cannot be made in respect of the same, and that the appointment of fit person would amount to interference with the rights of the appellants and other believers.

11. In addition, Sri M.V.S. Suresh Kumar submits that within a short period, during which the Ashram was under the management of the fit person, huge funds were not accounted for and that the administration was grossly neglected. He submits that the learned District Judge dismissed the suit on totally untenable grounds. It is complained that no issues were framed, much less any evidence was recorded and that even while dismissing the suit, the trial Court granted relief to the defendants therein. He submits that such relief could not have been granted even if a suit were to have been filed for that purpose. According to the learned Counsel, the Ashram is not covered by the provisions of the Act, and it is competent for a civil court to frame a scheme u/s 92 of the Act.

12. Sri P. Sridhar Reddy and other learned Counsel, who appeared for some of the impleaded parties, has also advanced similar arguments.

13. Learned Government Pleader for Endowments opposed the revision and the appeal. He contends that even according to the recitals in the O.A., the Bhagwan was preaching vedic injunctions and in that view of the matter, the Ashram is a religious institution or a Math. He submits that the Deputy Commissioner had undertaken extensive discussion and ultimately arrived at a conclusion that the structure of the Samadhi as well as the practices followed at the Ashram indicate that it is a religious institution, pure and simple. According to him, it is impermissible for a Civil Court to frame a scheme for the institutions that are governed by the provisions of the Act. Reliance is placed upon Section 156(e) of the Act.

14. To the same effect are the arguments advanced by Sri M.Y.K. Raydu, who

appeared for the parties, who got themselves impleaded in the revision.

15. Since it is not a matter, where the individuals, who figure as parties, are claiming any benefit or rights for themselves, and since it has large amount of public interest, this Court requested Sri M.V. Durga Prasad, learned Counsel to render assistance. He acceded to the request, made extensive study of the issues and advanced elaborate arguments. Learned Counsel had appraised this Court, of the parameters that become relevant in deciding the nature of an institution in the context of bringing it under the provisions of the Act. He submits that the Deputy Commissioner was not clear in his mind, when he recorded a finding to the effect that the Ashram is a "public religious math", and such an expression does not find place in the Act at all. Learned Counsel submits that unless and until the Ashram was found to be either religious institution or math, as defined under the relevant provisions, it cannot be brought under the purview of the Act and in such cases, it is always competent for the civil court to frame a scheme. He has drawn the attention of this Court to the relevant provisions of the Act and C.P.C. and various precedents rendered by the Supreme Court and different High Courts.

16. In view of the wide ranging and extensive submissions made by the learned Counsel, the following questions arise for consideration:

- (a) Whether the Ashram of Bhagwan Venkaiah Swamy at Golagamudi is a religious institution or math as defined under the Act;
- (b) Whether it is competent for a civil court to frame a scheme for the administration of the Ashram; and
- (c) If so, the nature and purport of the scheme.

17. It is, by no means, a simple task to decide the character of a place, where believers or devotees flock, to pay their respects. The difficulty gets further confounded, when the worship is to the mortal remains of a noble personality. The dispute in this case is as to whether the Ashram, which is the Samadhi of Bhagwan Venkaiah Swamy, can be treated as a religious institution, or math, under the Act.

18. Before any discussion is undertaken on merits, it is better to have a glance of the relevant provisions of law. The Madras Act 19 of 1951 used to govern Hindu religious institutions and endowments and Hindu charitable institutions and endowments in the State of A.P., till it was replaced by the A.P. Charitable Hindu Religious Institutions and Endowments Act 1968. The latter, in turn, was repealed and replaced by Act 30 of 1987.

19. An important feature of the 1987 Act is that charitable institutions, whether or not Hindu, are covered by it, whereas the religious institutions and endowments are required to be Hindu, to be brought under it. Reading of Sub-section (3) of Section 1, which reads as under, makes this aspect clear.

1(3) It applies to:

(a) 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.

(b) all Hindu public religious institutions and endowments whether registered or not in accordance with the provisions of this Act.

20. From this, it follows that a charitable institution or endowment, irrespective of its religious leanings, would be governed by the Act as long as it is not covered by the Wakf Act. It is nobody's case that the Ashram is a charitable institution or endowment.

21. "Religious institution" is defined under Sub-section (23) of Section 2 of the Act as under:

2(23) Religious institution" means a math, temple or specific endowment and includes a Brindavan, Samadhi or any other institution established or maintained for a religious purpose;

The definition is inclusive in nature. In addition to the three entities referred to therein viz., math, temple and specific endowment, mention is also made, of Brindavan, Samadhi. The list is not exhaustive. The pre-dominant and deciding factor is, that they must have been "established or maintained" for a religious purpose. The words "religious" and "religion" occur at many places in the Act, but in conjunction with other words. For example, "religious charity" is defined under Sub-section 21 as "public charity associated with a Hindu festival or observance of religious character" whether connected with a religious institution or not. The definition of "religious endowments" runs almost on similar lines.

22. Here itself, it is necessary to reduce the area of controversy. It is not even pleaded by anyone that the Ashram is a religious endowment. Therefore, the controversy boils down to the question whether the Ashram answers the description of religious institution. In view of the illustrative and inclusive nature of the definition, it is better that the process of elimination is adopted viz., to see whether it fits into the description of one entity or the other, mentioned in the definition.

23. The first word occurring in the definition of "religious institution" is "Math". It is defined u/s 2(17) of the Act, which reads as under:

(17) "Math" means a Hindu Religious Institution presided over by a person, whose principal duty is to engage himself in the teaching and propagation of Hindu religion and philosophy or the teachings and philosophy of the denomination, sect or sampradaya to which the math belongs and in imparting religious instruction and training and rendering spiritual service or who exercises or claims to exercise spiritual headship over a body of disciples ; and includes any place or places of religious worship, instruction or training which are

appurtenant to the institution;

From this, it becomes clear that, a Muth

(1) is a religious institution;

(2) presided over by a person;

(3) the principal duty of such person is to engage himself

(a) in teaching and propagation of

(i) Hindu religion and philosophy; or

(ii) the teachings and philosophy of the denomination, sect or sampradaya to which the math belongs;

(b) imparting religious instruction and training; and

(c) rendering spiritual service;

(4) exercises or claims to have exercised spiritual leadership over the body disciples.

24. In a way, the definition is circular. In the definition of Religious Institution, reference is made to Muth and vice versa. It is only when an institution partakes these characteristics mentioned above, that it can be classified as a Math. In the instant case, the Ashram is not presided over by any person. On the other hand, it is a Samadhi. Since Samadhi is included in the definition, discussion in this regard would be undertaken at the relevant stage. This much, however can be said that one and the same institution cannot answer the description of "Math" and "Samadhi". The reason is that the Math is presided over by a person, who has identified objects before him, viz., teaching and propagation of Hindu philosophy or denomination sect or sampradaya etc. Secondly, he must be not only rendering spiritual services but also be exercising spiritual leadership over the body of disciples. This can be possible only when the person presiding over the Math is alive. Therefore, the Ashram cannot be treated as a Math.

25. The next word occurring in the definition is "Temple", which in turn is defined under Sub-section (27) of Section 2 of the Act, as under:

(27) "Temple" means a place by whatever designation known used as a place of public religious worship, and dedicated to, or for the benefit of, or used as of right by the Hindu community or any section thereof, as a place of public religious worship and includes sub-shrines, utsava mandapas, tanks and other necessary appurtenant structures and land;

26. The Deputy Commissioner did not even mention in his order that the Ashram is a Temple. In this context, it is instructive and interesting to refer to the judgment of a Division Bench of the Madras High Court in Sri Ramanasramam v. Commissioner for Hindu Religious and Charitable Endowments, Madras 1959 MLJ

PARTII 121. The question before their lordships was whether Sri Mathrubootheswara Swami Temple within the precincts of Sri Ramanasramam, Thirumannamalai is a religious institution as defined under the Madras Hindu Religious and Charitable Endowments Act. A structure, resembling a Temple was constructed over a Samadhi of the Mother of Bhagwan Ramana Maharshi and in fact, a Shivlinga was installed over the Samadhi. That was an exceptional case, where the Court had the benefit of the deposition of Bhagwan Ramana Maharshi, Himself. The observations of Balakrishna Ayyar, J in *Uramu Seshachalam Chettiar Charities v. The State of Madras and Ors.* on the definition of Hindu religious institution, were extracted. The relevant portion reads as under:

The word "Hindu" must be given the same connotation whether it is read in connection with religious institutions and endowments or whether it is read in connection with charitable institutions and endowments. Now, we can have a Hindu religious institution or a Christian religious institution or a Muslim religious institution. But, I do not see how we can have a religious institution which is at one and the same time partly Hind and partly Christian or party Muslim. I am not aware that any religious institution exists in the State which bears such a composite character. There can be no doubt whatever that so far as religious institutions are concerned, the Act is intended to apply only to religious institutions and endowments which are exclusively Hindu in character. The omission of the word "exclusively" on which Mr. Srinivasan laid stress, is of no consequence. In fact, the introduction of such a qualifying word was entirely unnecessary and would only have led to confusion and controversy in other places in the Act. The expression "Hindu Temple" is plain enough. By saying "exclusively Hindu temple" we are not making the meaning plainer; we are only introducing degree of annoyance.

27. Though the definition of Hindu religious institution has been widened under the A.P. Act 30 of 1987, to certain extent, the basic characteristic viz., "Hindu religious" continues to remain the same. In the instant case, it has come on record before the Deputy Commissioner that a Mission, consisting of the devotees of the Ashram, includes persons from different religions such as Christian and Muslim, and the certification of registration of the mission clearly demonstrated this. P.W.3 who was a member of the mission is a Christian by religion. Petitioner No. 10 in the O.A. is a Muslim. Therefore, it is too difficult to conclude that the Ashram is a Hindu Institution pure and simple, or Temple.

28. The Division Bench of the Madras High Court examined the issue from another angle also. It was pointed out that if there exists Shastraic basis for any institution in the form of following Agama Sastras or where the institution is recognized, as having long religious practices and usage of substantially large class of persons, it can be brought under the purview of the definition. It was held that if Shastraic basis is indicated, time is not essential, and if religious practices were in vogue from time immemorial, though without shastraic basis, it can be brought under the purview of the Act and definition. The Division Bench,

after referring to the observations made by the Supreme Court and in *Saraswathi v. Rajagopal Ammal* 1953 S.C.J. 714, held as under:

In other words, a temple must conform to Agama Sastras or by immemorial public usage, must have come to be regarded as places of public religious worship, notwithstanding its non-conformance with the Agama Sastras.

29. If we apply this test to the facts of the present case, the first limb is not satisfied, inasmuch as the Ashram is not based on any Shastraic practices or Agama Sastras. The second limb does not apply for the reason that the Bhagawan attained nirvana as recently as in 1982. It is too early to say that the practices are recognized as belonging to Hindu religion, from the time immemorial. Further, the evidence is very scanty in this regard. In a distant future, if it is established that predominantly Hind religious practices are being followed, over a very long period, and assuming that the law remains the same, there may be scope for having a second look, over the matter. For the present, it does not fit into these parameters. The net result is that the Ashram cannot be treated as a Temple.

30. The third item mentioned in the definition of religious institution is "specific endowment". This expression is defined u/s 2(25) of the Act as under:

(25) "Specific Endowment" means any property or money endowed for the performance of any specific service or charity in a charitable or religious institution or for the performance of any other charity, religious or otherwise.

31. An essential feature is that money or property must have been endowed for religious or charitable purposes. It was nobody's case that any property or money was endowed for the Ashram, that too for the purpose of any specific service or charity. As a matter of fact, the Samadhi itself was constructed over government land. No corpus fund as such existed for the Samadhi, which later on became an Ashram. Bhagwan himself was not possessed of any properties and his disciples, who brought about the Ashram, are known if at all for their devotion and not for donating funds or creating any endowments. It is a different thing that after the Ashram became prominent, substantial offerings were made, and phenomenal development has taken place. Therefore, it cannot be treated as a "specific endowment".

32. The other two words occurring in the definition of "religious institution" are "Brindavan and Samadhi". Together with a residuary item viz., "any other institution" these two are qualified with the phrase "established or maintained for religious purpose". Since the Ashram is developed over the Samadhi of Bhagwan, there is some likelihood of its being brought within the fold of "Samadhi". The word "Samadhi" is not defined under the Act. However, it is not difficult to understand the same. It is a structure, brought into existence over the mortal remains of a noble personality. Mere Samadhi, however does not attract the definition of religious institution, unless it was established or maintained for a religious purpose. Whether or not the activities carried out at the Ashram or

Samadhi constitute religious purposes, has already been dealt with in the preceding paragraphs. It was pointed out that they do not have any Shastraic basis, nor are spread over, time immemorial. Viewed from any angle, the Ashram cannot be brought within the definition of "religious institution".

33. The Deputy Commissioner no doubt made an elaborate discussion of the matter with reference to the oral evidence of P.Ws.1 to 3 and R.Ws.1 to 3 and documentary evidence in the form of Exs.P.I to P.11 and Exs.R.1 to R.7. He however bestowed his attention more to the distinction between a private and public institution than to the question, whether it answers the description of religious institution, at all. Having departed from the actual issue that fell for his consideration, he arrived at a conclusion that the Ashram is a "public religious math" within the meaning of Act 30 of 1987. Nowhere in the Act, the expression "public religious math" is defined. This finding, apart from not resolving the controversy, would add new dimensions to it.

34. Before an institution is brought under the total control of the Government, there must be a perfect verification of the relevant facts and clear finding as to its character, with reference to the relevant provisions of the Act. Such far-reaching consequences cannot be permitted to ensue, on the basis of imperfect and equivocal findings.

35. The appellate Court proceeded mostly on the general observations. It concentrated more on the appearance of the structure and desirability of the institution being brought under the Act than the determination of the character of the Ashram with reference to the provisions of the Act. In paragraph 37 of its judgment, the appellate Court observed as under:

Even considering the interest of public at large and for the better management of the institution, it is safe that the institution shall be taken over by the Endowment department. There will be proper auditing and there will be proper supervision and accountability.

It is more in the form of a personal opinion, than a finding, based on evidence, and law. The learned Judge lacked clarity in his approach. He observed that sufficient evidence was not adduced to prove that the Ashram was constructed or managed exclusively by private persons with their own money. Though the word "worship" was used at several places in the judgment, the nature thereof was not at all discussed. It was not examined whether the worship accords with the Agama Shastras or whether the practices are in vogue, from time immemorial.

36. Assuming that all or some of the activities undertaken by the Ashram have anything to do with the Hindu religion, it is difficult to hold that the Act and the Rules made thereunder would regulate every activity pertaining to that religion. The preamble of the Act itself makes it clear that it is enacted to consolidate and amend the law relating to the administration and governance of "charitable and hindu religious institutions and endowments" in the State of Andhra Pradesh. Many proclaimed authorities expressed their doubt as to whether there is

anything like Hindu religion. According to them, Hinduism is more a way of life, than a religion in its ordinary sense.

37. The tenets of any religion are contained in specific Holy Books or scriptures and they are traceable to the ultimate Spiritual Personality of that religion. For instance, in respect of Christianity, Bible happens to be the source of tenets and Jesus Christ is its founder. Similarly, for Islam, Kuran is the Holy Scripture and Prophet Mohammed is its propounder. Similar attributes are present for Judaism, Buddhism etc. However, one cannot identify any particular religious text as the sole basis for Hinduism nor can one authoritatively proclaim that a particular Spiritual Personality is the sole propounder thereof. One hardly comes across any identified ceremony, through which an individual can be introduced to Hinduism, or expelled from it. Even while belonging to a particular religion, an individual can express faith in Hinduism or even practice the tenets thereof. Instances are not lacking, where writers, hailing from other religions have analysed the tenets of the Hinduism in greater detail, chanted keerthanas or carved out Deities and other Temple structures.

38. The Supreme Court, in *Sastri Yagnapurushdasji v. Muldas Bhudardas Vaishya* 1966 Supreme Court 1119 observed as under:

When we think of the Hindu religion, we find it difficult, if not impossible, to define Hindu religion or even adequately describe it. Unlike other religions in the world, the Hindu religion does not claim any one prophet; it does not worship any one God; it does not subscribe to any one dogma; it does not believe in any one philosophic concept; it does not follow any one set of religious rites or performances; in fact, it does not appear to satisfy the narrow traditional features of any religion or creed. It may broadly be described as a way of life and nothing more.

The term "Hindu", according to Dr Radhakrishnan, had originally a territorial and not a credal significance. It implied residence in a well-defined geographical area. Aboriginal tribes, savage and half-civilized people, the cultured Dravidians and the Vedic Aryans were all Hindus as they were the sons of the same mother. The Hindu thinkers reckoned with the striking fact that the men and women dwelling in India belonged to different communities, worshipped different gods, and practiced different rites (Kurma Purana).

This was quoted with approval in *Dr Ramesh Yeshwant Prabhoo Vs. Prabhakar Kashinath Kunte and Others*, . In addition, the Court observed as under:

39. Ordinarily, Hindutva is understood as a way of life or a state of mind and it is not to be equated with, or understood as religious Hindu fundamentalism. In *Indian Muslims - The Need for A Positive Outlook* by Maulana Wahiduddin Khan, (1994), it is said (at p.19):

The strategy worked out to solve the minorities problem was, although differently worded, that of Hindutva or Indianisation. This strategy, briefly stated,

aims at developing a uniform culture by obliterating the differences between all of the cultures coexisting in the country. This was felt to be the way to communal harmony and national unity. It was thought that this would put an end once and for all to the minorities problem.

The above opinion indicates that the word "Hindutva" is used and understood as a synonym of "Indianisation", i.e., development of uniform culture by obliterating the differences between all the cultures coexisting in the country.

39. It is also apt to refer to the observations of K. Ramaswamy, J in A.S. Narayana Deekshitulu Vs. State of Andhra Pradesh and Others, , which read as under:

99. Hinduism cannot be defined in terms of Polytheism or Henotheism or Monotheism. The nature of Hindu religion ultimately is Monism/Advaita. This is in contradistinction to Monotheism which means only one God to the exclusion of all others. Polytheism is a belief of multiplicity of Gods. On the contrary, Monism is a spiritual belief of one Ultimate Supreme and manifests Himself as many. This multiplicity is not contrary to non-dualism. This is the reason why Hindus start adoring any Deity either handed down by tradition or brought by a Guru or Swambhuru and seek to attain the Ultimate Supreme.

40. At another place, the learned Judge said;

78. The word "dharma" or "Hindu dharma" denotes upholding, supporting, nourishing that which upholds, nourishes or supports the stability of the society, maintaining social order and general well-being and progress of mankind; whatever conduces to the fulfillment of these objects is dharma, it is Hindu dharma and ultimately "Sarva Dharma Sambhava".

41. Another aspect of the matter is that what one treats as a spiritual practice, is not confined to ecclesiastical aspects alone. When it comes to Hinduism, Vedic literature, considered to be source of religious tenets of Hinduism, has several branches i.e., Vedangas dealing with non-spiritual aspects, such as grammar, meemamsa, ayurveda. Though these branches of study can certainly be attributed to Hinduism, in the broad sense, they cannot be brought under the fold of the Act.

42. Take for instance, an institution imparting Ayurveda, or vedic literature. The activities in such institutions cannot be treated as religious. That obviously is the reason why the term "religious institution" is defined with a limited amplitude, under Sub-section (23) of Section 2 of the Act, as to mean a "math", "temple" or "specific endowment" etc. Though these are included in the definition, they answer the description of "religious institution", if only they are established or maintained for religious purposes. This discussion is felt necessary because the Deputy Commissioner of Endowments observed in his order that Bhagwan Sri Venkaiah Swamy used to preach vedic values and on that basis, brought it under the Act. Even if that were to be true, the Ashram cannot be brought under the

purview of the Act.

43. In O.S. No. I of 1995, the learned District Judge did not follow the procedure prescribed for trial and adjudication of suits. If a suit is not maintainable in law, the plaint has to be rejected in exercise of power under Rule 11 of Order VII C.P.C. This can be either at the instance of the defendants, or by the Court on its own accord. If any compromise has been arrived at between the parties, on the subject matter of the suit, a decree has to ensue, in accordance with Order 26 C.P.C. If neither the plaint is rejected under Order VII C.P.C, nor a compromise was arrived at between the parties, the only way that a suit can be given disposal is, by conducting a trial, which in turn comprises of framing of issues, recording of evidence, hearing the arguments and pronouncement of judgment. It is important to note that neither the suit was decreed ex parte, nor dismissed for default.

44. The suit was filed way back in the year 1995. The Endowments Department was not made a party to the suit. On the other hand, I.A. No. 232 of 1998 filed by it under Order 1 Rule 10 C.P.C. to get itself impleaded as a party was dismissed by the trial Court on 04.09.1999. The same was confirmed by this Court in C.R.P. No. 49 of 1999. The record does not disclose that any substantial progress has taken place in the matter, thereafter, except that the receivers were being appointed from time to time. An Executive Officer-cum-Fit Person was appointed soon after dismissal of A.S. No. 21 of 2002. The suit was taken up on a memo filed by him though he is not a party to the suit. No issues were framed in the suit and not a single witness was examined for either party. Still the trial Court proceeded to decide the suit.

45. The suit is for framing a scheme. If a scheme were to have been framed, the feasibility thereof ought to have been considered. On the other hand, if it was not possible or permissible, the suit ought to have been simply dismissed. Either way, the conclusion could have been arrived at, after the trial is conducted. The trial Court observed that the suit is liable to be dismissed in view of the judgment of the Court of III Additional District Judge (Fast Track Court) Nellore, in A.S. No. 21 of 2002, which in turn is the subject matter of C.R.P. No. 3375 of 2006. The observation reads as under:

Therefore, in view of the events that have taken place and by virtue of the Judgment in A.S. No. 21 of 2002 and Section 156 of the Endowments Act, the suit is liable to be dismissed.

46. Assuming that the trial Court felt that framing of issues or examination of witnesses would be superfluous, in the circumstances of the case, the matter should have rested with the dismissal of the suit. However, it proceeded to pass a decree, directing an arrangement, which is almost a scheme. The nature of arrangement, directed by it, for the administration of the Ashram, is on the following lines:

As suggested by the counsel, the person who now takes management may not

be having experience or knowledge of the particulars of the activities and in the interest of the institution and the service of the devotees, the receivers appointed by this Court are to be continued for some period. It is to be particularly mentioned that Sri Narasimhacharyulu who is now the Executive Officer of Jonnawada temple has taken lot of interest in maintaining the discipline and the management of the temple and he shall be continued as a receiver on behalf of the Court for a period of one year till July, 2007 even after his retirement in July, 2006 and he shall be paid the same remuneration which is paid till now. Sri C. Syam, advocate who is also in management shall be continued as a receiver till the end of December, 2006 on the same remuneration as paid now. The receivers are directed to hand over all the accounts and valuables to the Executive Officer appointed by the Commissioner and file a list of the same before the Court. The Executive Officer hereafter is permitted to deal with the financial transactions by himself and there is no necessity of the receivers to sign on any cheque or bank account. The receivers and the Executive Officer shall do their best to keep the faith of the devotees and shall continue the activities without any wastefulness. The School shall also be continued since it has been started with a noble object. The employees and the workers who are presently working shall be continued on the same pay fixed by this Court, which can be reviewed subsequently as per the convenience. There shall be serious effort to continue all the rituals and "Annadhanam" which is the main wish of the Swamy without much disturbance nor with excessive expenditure. The Executive Officer is empowered to deal with the financial transactions and bank dealings with effect from 12.06.2006 and the power of the receivers ceases from then. In any case of any problem or any instructions, the receivers or the Executive Officer can seek the clarification of the Court. Accordingly, with the above directions, the suit is dismissed as not maintainable. No costs. The Manager, Canara Bank, Nellore is directed to act on the cheques etc., issued by the Executive. Officer from 12.06.2006.

47. The judgment rendered by the trial Court is not only a contradiction in terms, but also totally unsustainable in law. On the one hand, it flatly denied any relief to the plaintiffs in the suit and on the other hand, proceeded to confer undue benefit on the persons, who are neither parties to the suit nor accountable to anyone. Therefore, the Judgment in O.S. No. I of 1995 cannot be sustained either in law, or on facts.

48. The matter however does not end with the setting aside of the judgment and decree under appeal. Once it is held that the Ashram is not governed by the provisions of the Act, there does not exist any impediment for framing a scheme, as prayed for by the plaintiffs, in the suit. In the normal course, the matter must go back to the trial Court. However, the parties to the appeal have, almost in one voice, stated that in case, the Ashram is held to be not governed by the provisions of the Act, a scheme may be framed by this Court, since there are no rival contenders, among the private parties.

49. In view of the findings of this Court that the provisions of the Act do not apply to the Ashram, the prohibition contained in Section 156(e) of that Act does operate, vis-a-vis the Ashram.

50. At one point of time, Bhagwan Sri Venkayya Swamy Humanitarian Mission, the 1st respondent in the appeal, made an effort to administer the affairs of the Ashram. However, from the report of the Joint Collector, Nellore, which was procured through the Receiver, on the basis of an order passed by this Court, it is evident that the said Agency had since become defunct.

51. An interim arrangement was ordered by this Court, for administration of the Ashram pending disposal of the appeal. Sri Balasubrahmanyam, I.A.S. (Retired) was appointed as Receiver, and Sri Sudhakar as his associate. Phenomenal development has taken place during the past two years. For instance, a vast extent of Ac.42.00 of land was procured from the Government, on market value. Registration under the Income Tax Act with retrospective effect was obtained, with the initiative taken by the Receiver. Constructions worth several lakhs were made mostly through donation for the convenience of pilgrims. The services and sevas at the Ashram were brought to systematic order. The monthly income of the Ashram, through collections in the Hundi has virtually doubled. The fixed deposits have almost doubled. The parties to the present proceedings have expressed the view that the present pace of development needs to be continued.

52. This Court is of the view that the Ashram has great potential, to become an important place for emulation of human, ethical and moral values. It would also emerge as a centre for selfless service. For this purpose, the activities thereat, have to be in an organized way carried out in a transparent manner. Though it is always difficult to reach the ideal, an effort must certainly be made in that direction. If the participants cherish the same values and aim at the same object, the task is not at all impossible. With this aim, and after pondering over the issue, a scheme which is appended to this judgment is framed.

53. Before parting with the case, this Court places on record, the valuable, dispassionate and objective assistance rendered by the learned Counsel for the parties, as well as the amicus curiae, which helped this Court to tread through an otherwise difficult terrain.

54. For the foregoing reasons, C.R.P. No. 3375 of 2006 is allowed, and the orders passed by the Deputy Commissioner of Endowments, Guntur, dated 19-01-2002, in O.A. No. 7 of 1999, and that of the Court of III Additional District Judge" (Fast Tract Court), Nellore, in A.S. No. 21 of 2002, are set aside. O.A. No. 7 of 1999 shall stand allowed, declaring that, Bhagwan Sri Venkaiah Swamy Ashram, is not Religious Institution, and is not covered by the provisions of the Act.

55. A.S. No. 331 of 2006 is allowed, and the judgment and decree in O.S. No. I of 1995 on the file of the District Judge, Nellore, dated 06-06-2006 are set aside. The Suit is decreed by framing a scheme, which is appended to this judgment.

56. There shall be no order as to costs.