
(2005) 01 AP CK 0045
In the Andhra Pradesh High Court
Case No : Writ Petition No. 1132 of 2005

P. Rajalingam

APPELLANT

Vs

Deputy Commissioner of Endowments and Another

RESPONDENT

Date of Decision : 31-01-2005

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 87(5), 88

Citation : (2005) 3 ALD 1 : (2005) 2 ALD 393 : (2005) 2 ALT 348

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : M. Vidyasagar, for the Appellant; Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The petitioner filed OA No. 1 of 1986 u/s 87 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act") before the 1st respondent for a declaration that the property in Premises No. 5-3-742 of Sankar Bagh admeasuring 240 square yards, does not belong to Tulja Bhavani Temple and that it is his personal property. After undertaking necessary enquiry and hearing the parties, the 1st respondent formed an opinion and submitted the same to the 2nd respondent for confirmation as required under Sub-section (5) of Section 87 of the Act. Through order, dated 25-11-2004, the 2nd respondent refused to confirm the decision of the 1st respondent. The petitioner states that he intends to avail the remedy of appeal u/s 88 of the Act and for that purpose, a copy of the order dated 26.4.2000 passed by the 1st respondent in OA No. 1 of 1986 is necessary. He contends that though he submitted an application in this regard, the same was not complied with. Therefore, he seeks a declaration that the refusal to furnish the certified copy of the same is illegal and arbitrary.

2. Heard learned Counsel for the petitioner and learned Government Pleader for

Endowments.

3. The relief claimed by the petitioner, basically appears to be innocuous and normally this Court should not find any difficulty in acceding to the request of the petitioner. However, there are certain basic questions, which need to be dealt with.

4. Section 87 of the Act provides for a typical method of adjudication of matters brought in its purview. In the ordinary course of things, passing of orders by the adjudicatory authority is treated as the final culmination and concomitant part of the adjudicatory process. The order passed by such authority puts an end to the proceedings before him. Aggrieved parties have to work out their remedies in accordance with the relevant provisions. However, the decision taken or order passed by the authority u/s 87(5) of the Act viz., the 1st respondent, would become effective only when it is confirmed by the Commissioner viz., the 2nd respondent. The said provision reads as under:

"87(5) : Any decision or order of the Deputy Commissioner deciding whether an institution or endowment is not a public institution or endowment shall not take effect unless such decision or order is confirmed by an order of the Commissioner."

5. From this, it is evident that the decision or order of the 1st respondent gives rise to any rights only when it is confirmed by the 2nd respondent. In such an event, what becomes appealable is such an order, after confirmation. On the other hand, if the 2nd respondent refuses to confirm the decision or order of the 1st respondent, the claim of the applicant stands rejected and it is the action of the 2nd respondent in refusing to confirm the decision of the 1st respondent, that becomes appealable. In such an event, the entire matter will be writ large before the Appellate Authority u/s 88 of the Act.

6. In cases, where the Commissioner refuses to confirm the order passed by the Deputy Commissioner, the decision taken or order passed by the latter ceases to have any adjudicatory effect. At the most, it remains a tentative opinion, which did not find favour with the Commissioner. Therefore, no rights, as such, can be said to have accrued to the applicant on the strength of such tentative opinions or still born orders, to put it in a lighter vein . Such decisions or orders can never constitute the subject-matter of an appeal. That being the case, no party to the proceedings can have a right to insist on furnishing the copies of the same. Therefore, the 2nd respondent cannot be insisted on to furnish a copy of the decision or order submitted by him to the 1st respondent, refusing to confirm it.

7. Hence, the writ petition is dismissed. It is, however, made clear that it shall be competent for the petitioner to urge before the Appellate Authority, u/s 88 of the Act, all the grounds that were raised by him before the 1st respondent. There shall be no order as to costs.