

(2016) 03 KAR CK 0194

In the Karnataka High Court

Case No : Writ Petition Nos. 31167 to 31175 of 2011 (GM-R/C)

Ravi Subramanyam

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 14-03-2016

Acts Referred:

Hindu Religious Institutions and Charitable Endowments Act, 1997 — Section 58

Citation : (2016) 5 KantLJ 133

Hon'ble Judges : Mr. A.S. Bopanna, J.

Bench : Single Bench

Advocate : Sri Padubidri Mohan Rao, Advocate, for the Appellant; Sri T.L. Kiran Kumar, Additional Government Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. A.S. Bopanna, J.—The petitioners are before this Court assailing the order date 18-6-2009 and the order dated 16-3-2009 impugned at Annexures-A and B to the petition as depicted in the prayer column. However what is necessary to be noticed is that the challenge in effect is to the order dated 18-6-2011 which in fact is the document at Annexure-A to the petitions. Hence the consideration of the petitions is made in that light.

2. The grievance put forth on behalf of the petitioners is that they are the hereditary archaks of the second and third respondents-temple, out their right to perform the "Chandi Homa" in the manner as it existed earlier is being taken away by the order date 16-3-2009. Learned Counsel for the petitioner in that regard would refer to Section 58 of the Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 and would also refer to the decision of the Hon'ble Supreme Court in the case of Trambakeshwar Devasthan Trust and Another v. President, Purohit Sangh and Others, AIR 2012 SC 139.

3. The respondents have filed their objection statement referring to the proceedings which led to enhancement of the fee and also the reason for which it

was being done. It is stated therein that there was exploitation of the devotees and therefore in order to see that a uniform procedure is followed, the fee has been fixed.

4. In the background of the above, though contentions are urged on behalf of the petitioners with regard to the religious practise and right being denied, what is necessary to be noticed herein is that the petitioners were before this Court for the first time assailing the action by filing W.P. Nos. 7736 to 7742 of 2009. The said writ petitions were disposed of by order dated 28-5-2010 whereby this Court after adverting to the rival contentions had only directed the second respondent to consider the representation made by the petitioners which was produced as Annexure-D1 to the said petitions. It is in that light on reconsideration the order dated 18-6-2011 is passed.

5. Having taken note of these aspects, I am of the opinion that at this juncture the contentions as put forth by the petitioners with regard to the interference with the religious practise which existed earlier and the right that had accrued to the petitioners being hereditary archaks would be an issue which is beyond the present consideration. Insofar as the issue that had arisen for consideration in the earlier petitions, it was relating to enhancement of the fee that had been fixed for the performance of "Navagraha Purvaka Navachandi Homa". In that regard, as pointed out by the learned Counsel for the petitioners the fee that existed was Rs. 3,000/-. It is contended on behalf of the petitioners that the fee was being collected by the petitioners, but by the order impugned, the fee has been fixed and the amount is to be paid to the temple which has affected their right.

6. A perusal of the order impugned dated 18-6-2011 would however indicate that the consideration made was strictly in terms of the direction issued earlier by this Court inasmuch as the relevant portion of the order in the earlier writ petition has been extracted in the order date 18-6-2011. The consideration therefore was only with regard to enhancement of the fee that had been fixed by the order.

7. Therefore to the said extent, the order impugned dated 18-6-2011 cannot be considered to be erroneous. However, if any other right of the petitioners has been affected and if any hereditary right is sought to be protected, certainly the petitioners would avail the remedies open to them separately in accordance with law and if such dispute is raised by the petitioners in an appropriate forum, the same shall be considered in accordance with law without the issue relating to enhancement of the fee fixed and the same being upheld not being considered as a bar for such consideration.

8. Reserving such liberty to the petitioners, the petitions stand disposed of.