

(2012) 02 KAR CK 0031

In the Karnataka High Court

Case No : Writ Petition No's. 37164-37165 of 2011 (GM-R/C)

Sri. N. Keshavappa

APPELLANT

Vs

The Asst. Commissioner Chitradurga Sub Division.
Chitradurga-577501 and Others

RESPONDENT

Date of Decision : 06-02-2012

Acts Referred:

Hindu Religious Institutions and Charitable Endowment Act, 1997 — Section 25, 25 (1), 28, 29

Citation : (2012) 02 KAR CK 0031

Hon'ble Judges : Abdul Nazeer, J

Bench : Single Bench

Advocate : B.M. Siddappa, for the Appellant; H.T. Narendra Prasad, HCGP for R 1 to R 3 and Sri. V. Lakshminarayana, for R-4 to R-9, for the Respondent

Final Decision : Dismissed

Judgement

S. Abdul Nazeer

1. A committee of management to manage the affairs of Sri Anjaneyaswamy Temple, Halekundur Village, Bagur Post. Hosadurga taluk, Chitradurga District, was constituted by respondent No. 1 as per the order at Annexure-A dated 6.3.2009. The petitioner was appointed as the President of the said committee. By an order at Annexure-E dated 15.9.2011, an Administrator was appointed to manage the affairs of the said temple. The petitioner has called in question the validity of the said order in these writ petitions.

2. Sri. B.M. Siddappa, learned Counsel for the petitioner would contend that the 2nd respondent was not justified in appointing an Administrator to manage the affairs of the aforesaid temple. It is argued that without dissolving the committee of the management, the question of appointment of an Administrator does not arise. It is further contended that u/s 25 of the Hindu Religious Institutions and Charitable Endowments Act, 1997 (for short "the Act") amended by Act No. 27/2011, which has come in to force w.e.f. 4.5.2011, a committee of

management constituted or appointed under the repealed Act shall cease to hold the office. The committee of management of the temple in question was not constituted under the repealed Act. Therefore, the amended provision has no application insofar as the committee in question is concerned.

3. On the other hand, Sri. V. Lakshminarayana, learned Counsel appearing for respondent Nos. 4 to 9, submits that a committee to manage the affairs of the temple in question was constituted on 6.3.2009 under the unamended Section 25(1) of the Act. The said provision was substituted by Act No. 27/2011 w.e.f. 4.5.2011. Having regard to second proviso to Section 25(1) of the Act, the existing committee shall cease to hold the office from the date of commencement of the amended Act. Therefore, the question of dissolving the committee as provided u/s 28 of the Act does not arise. The competent authority has appointed the Administrator, as per the order at Annexure-E dated 15.9.2011 which is perfectly in accordance with law.

4. I have carefully considered the arguments of the learned Counsel for the parties made at the Bar and perused the materials placed on record.

5. The Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997 (Karnataka Act No. 33/2001) has come into force w.e.f. 25.10.2001. The object of the Act was to make better provision for the management and administration of the Hindu Religious Institutions and Charitable Endowments in the State of Karnataka. Section 25 of the Act provides for constitution of the Committee of the management. It states that subject to any general or special order of the State Government, there shall be constituted by the prescribed authority a committee of management consisting of nine members in respect of one or more notified institutions and different authorities may be prescribed in respect of different class or classes of notified institutions. Section 28 of the Act authorises the prescribed authority to dissolve the committee of management in accordance with sub section (2). Section 29 provides for appointment of an Administrator. It states that the prescribed authority shall appoint an officer of the State Government as Administrator in place of the committee of management dissolved or suspended under Sub-Section (1) or (3) of Section 28 or after the expiry of the term of office of the Committee u/s 26 and till a new committee of management is constituted or for a period of six months whichever is earlier. Section 78 of the Act has repealed certain enactments governing Hindu Religious Institutions and Hindu charitable Institutions.

6. Sub Section (1) of Section 25 has been amended by Act No. 27/2011 which has come into force w.e.f. 4.5.2011. Second proviso to Sub Section (1) of Section 25 of the amended Act reads as under:

Second proviso to Section 25 of the Act states that every committee of management or Pancha Committee or Dharmadarshi Committee or Non-hereditary Trustee constituted or appointed under the repealed Acts who were lawfully holding office shall cease to hold office from the date of the

commencement of the Karnataka Hindu Religious Institutions and Charitable Endowments (Amendment) Act. 2011.

7. The contention of the petitioner is that the committee of the temple in question was not constituted under any of the repealed Acts u/s 78 of the Act. Therefore, the said committee cannot stand dissolved under the Second proviso to Section 25 of the amended Act. The committee has not been dissolved u/s 28 of the Act. Without dissolving the committee as provided under the said provision, the question of appointment of an Administrator does not arise. I am afraid that the said contention cannot be accepted. It is true that the second proviso contains the expression "repealed Acts". When the original Act (Act No. 33/2001) came into force w.e.f. 25.10.2001. all the Acts governing the Hindu Religious Institutions and Hindu Charitable endowments were repealed by Section 78 of the Act. When Section 25(1) of the Act was substituted by Act No. 27/2011, which has come into force w.e.f. 4.5.2011, none of the Acts governing the Hindu Religious Institutions and Hindu charitable endowments were in force. "Therefore, the expression "repealed acts" found in the second proviso to Section 25(1) in the context has to be understood as deletion of Section 25(1) of the unamended Act.

8. The committee of the management was constituted u/s 25(1) of the unamended Act. The said committee has ceased to hold the office by operation of law from the date of commencement of the amended act w.e.f. 4.5.2011. Therefore, the question of dissolving the said committee u/s 28 of the Act does not arise. In the circumstances, the question of hearing the petitioner before the dissolution of the committee also does not arise because the said committee has ceased to hold the office automatically when the amended Act. came into force. That is why the competent authority has appointed an Administrator u/s 29 of the Act which is legal and valid.

9. There is no merit in any of the contentions urged by the learned Counsel for the petitioner. Writ petitions are accordingly dismissed. No costs.