

(1997) 04 AP CK 0064
In the Andhra Pradesh High Court
Case No : Appeal No. 637 of 1983

Sri Nookalamma Temple

APPELLANT

Vs

Kola Nancharamma and Another

RESPONDENT

Date of Decision : 19-04-1997

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 34

Citation : (1997) 4 ALT 22

Hon'ble Judges : D.H. Nasir, J

Bench : Single Bench

Advocate : M. Adinarayana Raju, for the Appellant; C. Poornaiah, for the Respondent

Final Decision : Allowed

Judgement

D.H. Nasir, J.—This is a case in which the respondent-plaintiff is claiming archaka of Sri Nukalammavari temple, situated in Market Street, Kakinada for more than 25 years on the ground that her mother Chokka Pydamma was also the archaka of the same temple, and that before her mother, her grandmother Ambai Nookamma was the archaka, and prior to that Mosa Venkayamma, the mother of Ambai Nookamma was the archaka. She is also trying to assert that they were performing rites in the temple as hereditary archakas and were enjoying the offerings, according to the prevalent custom for generations as archakas.

2. Hereditary archaka has been deplored by the Apex Court in the case of A.S. Narayana Deekshitulu Vs. State of Andhra Pradesh and Others, in which the Supreme Court observed that the services of the priest (archaka) is a secular part. The right to perform religious service has appointment by the owner of the temple or king as its source, and their Legislature is competent to enact the law taking away the hereditary right to succeed to an office in the temple and equally to the office of the priest (archaka). The Supreme Court further observed that the hereditary right as such was not an integral part of the religious practice but

a source to secure the services of a priest independent of it. Therefore, when the hereditary right to perform service in the temple was terminated by an owner for bad conduct, its abolition by sovereign legislature was equally valid and legal. Regulation of his service conditions was sequenced to the abolition of hereditary right of succession of the office of an archaka. Though an archaka integrity associates himself with the performance of ceremonies rituals and daily pooja to the Deity, he was the holder of the office of priest in the temple and so were the other office-holders or employees of the temple. Though archaka was normally a well-versed and accomplished person in the Agamas and rituals necessary to be performed in a temple, he was the holder of an office in the temple. He was subject to the disciplinary power of a trustee or an appropriate authority prescribed in the regulations or rules of the Act. He owed his existence to an order of appointment-be it in writing or otherwise. Though after appointment, as an integral part of the daily rituals, he performed worship in accordance with the Agama Sastras, it was no ground to hold that his appointment was either a religious practice or a matter of religion. It was not an essential part of religion or matter of religion or religious practice and, therefore, the Supreme Court held that abolition of the hereditary rights to appointment u/s 34 was not violative of either Article 25(1) or 26(b) of the Constitution of India.

3. The right claimed by Respondent No. 1 as hereditary archaka is not only hit by the decision of the Supreme Court cited above, but also u/s 34 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, which provides for Abolition of hereditary rights in Mirasidars, Archakas, and other office holders and servants. The said Section reads as follows:

"34. (1)(a) Notwithstanding anything in any compromise or agreement entered into or scheme framed or sanad or grant made or judgment, decree or order passed by any Court, Tribunal or other authorities prior to the commencement of this Act and in force on such commencement, all rights, whether, hereditary, contractual or otherwise of a person holding any office of the Peddajeeyanagar, Chinna Jeeyanagar, a Mirasidar or an Archaka or Pujari or any other office or service or post by whatever name it is called in any religious institution or endowment shall on the commencement of this Act stand abolished.

(b) Any usage or practice relating to the succession to any office or service or post mentioned in Clause (a) shall be void;

(c) All rights and emoluments of any nature in cash or kind or both accrued to and appertaining to any office or service or post mentioned in Clause (a) and subsisting on the date of commencement of this Act on such commencement stand extinguished.

(2) Every office holder and servant mentioned in Clause (a) of Sub-section (1) holding office as such on the date of commencement of this Act shall notwithstanding the abolition of the hereditary rights, continue to hold such office or post on payment of only such emoluments and subject to such

conditions of service referred to in Sub-sections (3) and (4) of Section 35."

4. The learned Counsel for the 1st respondent fairly conceded that the right claimed by Respondent No. 1 as archaka stood abolished by Section 34 of the aforesaid Act. Hence, the appeal is allowed and the impugned order of the learned District Judge, East Godavari, Rajahmundry in O.S.35 of 1980 dated 26-2-1983 is hereby set aside. However, with no order as to costs.