

Babbala Rayalamma Vs. Assistant Commissioner, A.P. Charitable Religious Endowments and anr.

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Court : Andhra Pradesh

Decided On : Dec-17-2003

Reported in : 2004(4)ALD518

Judge : G. Yethirajulu, J.

Acts : Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966 - Sections 6, 40, 77, 87 and 91

Appeal No. : CRP No. 2258 of 1995

Appellant : Babbala Rayalamma

Respondent : Assistant Commissioner, A.P. Charitable Religious Endowments and anr.

Advocate for Def. : Government Pleader, Adv. for Respondent No. 1

Advocate for Pet/Ap. : M. Vijay Kumar, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

G. Yethirajulu, J.

1. This civil revision petition is filed by a private person who was the petitioner in O.A. No. 66 of 1985 against the order of the Deputy Commissioner, Endowments Department, Guntur dated 12-3-1991.
2. The Revision Petitioner filed the said O.A. under Sections 40 and 77 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 17/66 praying to declare that the tank in question is a private Trust and the land in an extent of Ac.01-37 cents in Survey No. 70 and Ac.04-21 cents in Survey No. 98 is not a Charitable Endowments.
3. The Deputy Commissioner after taking into consideration, the evidence adduced by both parties, came to a conclusion that the Revision Petitioner is not entitled for declaration. Accordingly, dismissed the petition on 12-3-1991.
4. The Revision Petitioner being aggrieved by the order of the Deputy Commissioner, filed A.S. No. 26 of 1991 on the file of the Additional District Judge, Ongole and the said appeal was also dismissed by the Additional District Judge, Ongole, through his judgment dated 5-5-1995. The Revision Petitioner being aggrieved by the judgment of the appellate Court, preferred this revision, questioning its validity and legality.
5. The point for consideration is; whether the judgments and decrees of the Court below are liable to be set aside?
6. The material placed by both parties discloses that according to the Assistant Commissioner, Endowments Department, the tank in question was published under Section 6(c)(i) of the Endowments Act of 1966 by the Commissioner Endowment , Hyderabad on 19-12-1983 and the land of an extent of Ac.05-58 cents is an endowment given for the maintenance of the drinking water tank. The Revision Petitioner contended that it is his personal property, therefore, the publication made by the Commissioner Endowment declaring it as endowed property is not valid.

7. The evidence placed by the parties discloses that the petitioner obtained ryotwari Pattas from the Special Deputy Tahsildar, Ongole by playing fraud on the Government, though, it was a public tank. One Bobbala Venkateshwarlu filed an appeal before the Revenue Divisional Officer Ongole, the Revenue Divisional Officer after making a detailed inquiry passed an order on 31-7-1981 cancelling the patta granted to the petitioner. The petitioner filed O.S. No. 726/73 on the file of the I Additional District Munsiff, Chirala against the Government of Andhra Pradesh and another, alleging that the property is his personal property and sought for declaration and permanent injunction. The suit was dismissed on merits and the appeal covered by A.S. No. 155/80 preferred by the petitioner was also dismissed by the District Court, Ongole on 25-9-1981 confirming the decree and judgment of the lower Court, The Lower Court after examining the relevant provisions including the definition of Charitable Endowment, observed that any Inam granted to the service holder or employee of the Charitable Institution for the purpose of charitable service in connection with a charitable institution shall not be deemed to be a personal gift to the service holder or to the employee, notwithstanding grant of ryotwari patta to such service holder or employee under the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956, but shall be deemed to be a Charitable Endowment.

8. The lower Court referred to Sub-section 6 of Section 87 of the Act also regarding drawing of the presumption in respect of properties relating to the Endowment Department. The Lower Court further observed that in the light of the publication made by the Commissioner and the adverse orders obtained by the petitioner in the earlier proceedings, the burden is on him to establish that the schedule property is his private property. Though, the petitioner relied upon Exs.P-1 to P-7, he did not establish that his ancestors were granted the land for digging a tank and that he is the absolute owner of Ac.05-58 cents. It is an undisputed fact that the said land is an Inam land. But, the petitioner failed to get the Inams register produced which would have indicated the nature of the property. He failed to file the extract to Inams fair Adangals to establish his case. The Lower Court, therefore came to a conclusion that the petitioner failed to establish that the property in question is not a public charitable institution and the landed property is not a public charitable endowment attached to the petitioner tank. The lower Court,

therefore, concluded that the entries made in the property register under Section 6(c)(i) of the Act need not be deleted.

9. The Lower Court after considering the order of the Deputy Commissioner came to a conclusion that there are no grounds to disturb the said order. The Lower Court also observed that there were interpolations in the remarks column of the Adangal extracts and the Adangal extracts for the Faslis 1387 to 1394 disclose that the petitioner has been in possession of only 50 cents of land in Survey No. 70 and Ac.01-68 cents in Survey No. 98. It was further concluded by the appellate Court that since the petitioner failed to discharge his burden and in view of the categorical admissions made by him under Ex.P-3 plaint, it does not lie in the mouth of the revision petitioner to contend that the land in question is a private tank. After a thorough discussion the lower Court dismissed the appeal by confirming the order of the Deputy Commissioner. After carefully going through the record and the orders of the Courts below, I am convinced that the Court below came to the correct conclusions and refused to grant the relief to the Revision Petitioner. I do not find any infirmity in the orders of the Court below and there are no grounds to interfere with the same.

10. In the result, this civil revision petition is dismissed confirming the orders of the lower Courts. No order as to costs.