

**HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

**WRIT PETITION No.2475 of 2020**

**ORDER:**

The petitioner seeks writ of mandamus declaring the order of the A.P. Endowments Tribunal, Amaravathi at Pedakakani in O.A.No.109 of 2019, dated 09.01.2020, as bad, illegal, arbitrary and contrary to Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short, 'Endowments Act') and for a consequential direction to set aside the said order.

2. The factual matrix of the case is thus:

(a) The first respondent is the Sunku Venkata Subbaiah Choultry situated in Proddatur town and it is a charitable endowment. The petitioner herein is a tenant in respect of one of the shops of the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent filed O.A.No.109 of 2019 before the A.P. Endowments Tribunal with the following averments:

*“The OA scheduled property was leased out to the respondent on a monthly rent of Rs.875/- for a period of three years from 01.10.2009 to 30.09.2012 and monthly rent of Rs.1275/- for a period of three years from 01.10.2012 to 30.09.2015 respectively and the said lease was approved by the Commissioner, Endowments Department, in D.Dis.No.B2/4224/2013/Adm, dated 03.01.2014. After expiry of the lease period, the respondent did not vacate the OA scheduled property. The respondent filed Writ Petition No.37730/2016 before*

*the Hon'ble High Court against the 1<sup>st</sup> petitioner and others in trying to dispossess the respondent from the petition scheduled property without following the due process of law. The Hon'ble High Court passed orders in the Writ Petition No.37730/2016 directing the 1<sup>st</sup> petitioner not to evict the respondent without following the due process of law. The respondent illegally occupied the OA scheduled property without permission of the competent authority after expiry of lease period and did not vacate the petition scheduled property till now. The scheduled premises is in prime locality of Proddatur Town and open Market value is Rs.20 lakhs and monthly rent of Rs.15,000/-. Hence, the O.A."*

(b) Opposing the O.A., the petitioner filed counter *inter alia* contending that originally the petition scheduled shop was a vacant place and was let out to the respondent in the year 1974 and he invested huge amounts of about Rs.8,00,000/- for running the shop and made a pukka shed with permanent foundation and running the plywood and hardware business in the said shop by paying rents regularly, starting from Rs.60/- per month. Earlier Shaik Ghouse Peer, who is the father of the writ petitioner, was the tenant. The rent was increased year by year and by the time of O.A., he was paying Rs.1977/- per month. The Satram building was divided into shops and let out to various persons for doing business. Thus, the family of the writ petitioner has been in possession and enjoyment of the shop for more than 45 years and they never committed any default in payment of the rent. The administrators of the Satram are

discriminating the writ petitioner on religious ground. He was sending rents in favour of Executive Officer of the Satram since April, 2016 by way of DDs but wantonly the Executive Officer of the Satram did not receive the rents.

(c) The Tribunal observed that the main plea of the writ petitioner is that his family has been a tenant in respect of the shop for more than 45 years and he is ready to enhance the rent but the respondent Satram is not willing to renew his lease of the scheduled property to him and therefore, the writ petitioner cannot claim any right on the basis of the long possession. It ultimately held that the writ petitioner was a trespasser liable to be evicted from the shop in his occupation. Accordingly, it allowed the O.A.

Hence, the writ petition.

3. Heard learned counsel for petitioner, Sri M.Vidyasagar, Sri G.Ramana Rao, learned standing counsel for 1<sup>st</sup> respondent and learned Government Pleader for Endowments representing on behalf of respondents 2 and 3.

4. The main plank of argument of learned counsel for petitioner is that the Tribunal has passed the order without granting an opportunity to the petitioner to establish his counter plea and therefore, the principles of natural justice is a casualty. He would argue that the Tribunal ought to have given him an opportunity to adduce evidence but it allowed the petition in a haphazard manner. He, therefore, prayed to set aside the impugned order.

5. On a close perusal of the impugned order, I find no irregularity or illegality in it. The reason is that, the main contention of the petitioner before the Tribunal is that he is a tenant in respect of one of the shops of Satram since more than 45 years and in view of his long possession, the administrators of the Satram cannot evict him and that he has been paying the rent regularly and he is ready to enhance the rent. However, it must be noted that according to the 1<sup>st</sup> respondent Satram, the shop was let to him on a monthly rent of Rs.875/- for a period of three years from 01.10.2009 to 30.09.2012 and thereafter, on a monthly rent of Rs.1275/- for a period of three years from 01.10.2012 to 30.09.2015 and the said lease was approved by the Commissioner of Endowments, vide D.Dis.No.B2/4224/2013/Adm, dated 03.01.2014 and after the expiry of the lease period, there was no further extension and the writ petitioner did not vacate the scheduled property and hence, he should be treated as a trespasser. The impugned order shows that the writ petitioner has not disputed regarding the expiry of the lease period w.e.f. 30.09.2015. On the other hand, his contention is that he has been in possession of the shop premises on rent for more than 45 years and that he is ready to pay enhanced rent.

6. As rightly observed by the Tribunal, mere long possession will not confer him any right to claim enhancement when particularly the 1<sup>st</sup> respondent did not wish to revise the lease. Since the writ petitioner has not vacated the premises, his possession became

unauthorized and therefore, he is rightly deemed as an encroacher within the meaning of explanation to Section 83 of the Endowments Act. Therefore, the eviction order passed by the Tribunal cannot be found fault either factually or legally.

7. As a result, this writ petition is dismissed, confirming the order in O.A.No.109 of 2019, dated 09.01.2020, passed by the A.P. Endowments Tribunal, Amaravathi at Pedakakani. The petitioner is granted one month time to vacate the shop premises of the 1<sup>st</sup> respondent.

As a sequel, miscellaneous applications pending for consideration, if any, shall stand closed. No costs.

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**U.DURGA PRASAD RAO, J**

**19.02.2020**  
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