

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

W.P.No.11859 of 2020

ORDER:

The 4th respondent is the absolute owner and possessor of a Kalyana Mandapam situated at Satyanarayanapuram, Vijayawada, Krishna District, known as Sri Sitarama Kalyana Mandapam. This Kalyana Mandapam was earlier under the possession of one Sri G.V. Purushottam Sarma, who claimed ownership over the Kalyana Mandapam. In order to recover possession of the said property, the temple had filed O.A.No.130 of 2009 before the Deputy Commissioner, Endowments, Kakinada and the same was allowed on 16.02.2010. This resulted in a long litigation before this Court and the Hon'ble Supreme Court, which ended with the dismissal of SLP No. 17253 of 2015 and SLP No. 20755 of 2015, giving liberty to Sri G.V. Purushottama Sarma to approach the civil Court for declaration of title. The petitioner submits that he was the Chairman of the temple when the matters were pending before the Hon'ble Supreme Court and he had taken a lot of interest in recovering this property for the temple.

2. The petitioner submits that in a parallel set of proceedings, Sri D. Chandrasekhar claiming to be the Dharmadhikari of the 5th respondent had raised claims on the Kalyana mandapam, which were against the 4th Respondent temple in W.P.No.37375 of 2014 and W.P.No.14942 of 2015 before this Court. Both these writ petitions were withdrawn on 30.01.2020 and 06.02.2020 respectively. At that stage Sri D. Chandrasekhar, claiming to be the Dharmadhikari of the 5th respondent, managed to get the impugned proceedings dated 19.05.2020 issued, whereby the Kalyan mandapam is to be handed over to the 5th Respondent.

3. The petitioner, being aggrieved by the said memo and the subsequent proceeding dated 02.07.2020 directing the executive officer of the 4th respondent-temple and the 3rd respondent to take further action in handing over the Kalyana Mandapam to the 5th respondent, is before this Court.

4. Sri D.V. Sasidhar, learned counsel for the petitioner would submit that there is no reason for handing over the property of the 4th respondent to the 5th respondent. He would submit that the management of the Kalyana Mandapam would be a source of income for the temple and taking away such a source of income is not permissible.

5. The 2nd respondent, the Special Commissioner, Endowments had filed a counter affidavit stating that the petitioner should have approached the Endowments Tribunal and could not have approached this Court without exhausting the alternative remedy available under the Law. The 2nd respondent states that this Kalyana Mandapam was under the control of the 5th respondent since 2001 onwards and on that basis the Head of the 5th respondent Peetham had requested the authorities for handing over the administration of the Kalyana Mandapam. In the circumstances, it was decided that it would be appropriate to handover the administration of the Kalyana Mandapam to the 5th respondent. The 2nd respondent also contended that the 5th respondent is undertaking spiritual activities and only management of the Kalyana Mandapam is being handed over to the 5th respondent in view of the laudable objects of the 5th respondent.

6. The 5th respondent has also filed a counter affidavit. The 5th respondent submits that the Kalyana Mandapam is not a commercial

function hall and is only a place of worship. He would submit that the Kalyana Mandapam is situated over an extent of 583 3/4 sq. feet and the same was constructed with the donations of some persons.

7. At that stage, one Smt. T. Seethamma, who had no title or interest in the Kalyana mandapam and was a donor to the 4th Respondent temple, had created a Deed of trust over the kalyana mandapam appointing her son T. Sri Rama Sarma as Hereditary Trustee. The Deputy Commissioner, Kakinada in his report dated 20.5.2010, had informed the Commissioner, Endowments that the said Trust was not valid or legal. In L.G.C.No.15 of 1993 filed by the Assistant Commissioner, Endowments, Vijayawada and Executive officer of the 4th Respondent temple against G.V. Bhogeswara Sarma, who is the trustee of the Kalyana Mandapam, the special Court under the Land grabbing Act had held that the 4th Respondent temple is not the owner of the Kalyana mandapam. The 5th Respondent submits that Sri G.V. Bhogeswara Sarma, as the Trustee, had given out the Kalyana mandapam in adoption to the 5th Respondent.

8. However, the 4th respondent suppressed all these facts and filed O.A.No.130 of 2009 and obtained an ex parte order of eviction against Sri G.V. Purushottama Sarma, who is the son of Sri G.V. Bhogeswara Sarma, on 16.02.2010. This was challenged and the said order was set aside and the O.A., was remanded for a fresh hearing. By order dated 05.06.2010, the said O.A., was dismissed on merits holding that Kalyana mandapam is a separate institution. As the authorities of the Endowments department were interfering with the Kalyan mandapam, the Commissioner of Endowments, on a request of the 5th Respondent, had issued proceedings dated 20.08.2010 directing the Deputy Commissioner, Kakinada not to interfere or take over the Kalyana mandapam. At that

stage, W.P.No.19640 of 2010 was filed against the order of the Deputy Commissioner in the O.A. This Court set aside the subsequent orders dated 05.06.2010 on the point of jurisdiction and gave liberty to Sri G.V. Purushottama Sarma to file an appeal within 90 days of the orders of this Court. Against this order an appeal was preferred in Writ Appeal No. 89 of 2015, which was disposed off 10.02.2015 directing the filing of an appeal. However, when the appeal vide CMA No, 130 of 2015 was filed, the same came to be dismissed on the ground of delay.

9. In these circumstances, the ex parte orders passed in favour of the 4th Respondent temple came into force and the possession of the Kalyana Mandapam was taken from the 5th Respondent on 27.03.2015. Subsequently, the earlier proceedings of the Commissioner, endowments dated 20.08.2010 were withdrawn by proceedings dated 30.03.2015. The orders of the High Court in CMA 130 of 2015 were challenged unsuccessfully in the Hon'ble Supreme, which, while dismissing the SLPs, had given liberty to Sri G. Purushottama Sarma to file a suit. At the same time, the 5th Respondent had also filed W.P.No.19474 of 2016 against the proceedings of the Commissioner dated 30.03.2015, which was subsequently withdrawn.

10. A recital of all the above facts would show that, whatever the merits of the claim of the 5th respondent, it is the 4th respondent which is recognised as the owner of the Kalyana Mandapam. The 5th respondent has taken a curious stand that the property is the property of the endowment department and the entries made in Section 43 Register of the Temple with regard to the ownership of the Kalyana Mandapam is intact and will continue.

11. The only provision in the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 under which a transfer of management of one institution to another institution can be done is Section 145 of the said Act. This provision relates to Adoption or Amalgamation of institutions, which can be done where an institution is not able to manage its affairs or would require better management and such adoption or amalgamation is for the benefit of such institution. The reasons given for the handing over of the management of the Kalyana Mandapam to the 5th respondent do not show that they are for the benefit of the 4th respondent Temple. On the other hand, the management of the Kalyana Mandapam is being handed over for the benefit of the 5th respondent. Further, the entire institution would have to be adopted or amalgamated. There is no provision for the piece meal adoption or amalgamation of bits and pieces of an institution to another institution.

12. For all these reasons, this Writ Petition is allowed setting aside the impugned Memo No.REV-01-Endts/979096/2018-Endts-II, dated 19-05-2020 of the 1st respondent and the consequential proceedings of the 2nd respondent in RC.No.B2/12026(51)/38/2020, dated 02.07.2020 with a consequential direction to the 5th Respondent to hand over the Kalyana Mandapam to the 4th Respondent within 4 weeks of receipt of this order.

13. However, none of these observations would be used in any proceeding that the 5th Respondent may initiate against the 4th respondent for claiming the Kalyana Mandapam nor shall this order be a defence in any case that may be filed against the 4th Respondent by the 5th Respondent..

As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

R. RAGHUNANDAN RAO, J

20th March, 2021

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HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

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