

**IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI**  
**HON'BLE Mr. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE**  
**&**  
**HON'BLE Mr. JUSTICE D.V.S.S. SOMAYAJULU**  
**WRIT APPEAL No.431 of 2022**

Yellanti Renuka, W/o. Koteswara Rao, aged about 54 years,  
Hindu, R/o.D.No.5-1-248/N/1, Sriram Nagar Colony,  
Khammam, Khammam District, and another

... Appellants

Versus

State of A.P., rep. by its Principal Secretary, Revenue  
(Endowments) Department, Secretariat Building, Velagapudi,  
Amaravati, Guntur District, and others

... Respondents

Counsel for appellants : Mr. M. Chalapathi Rao

Counsel for respondents 1 to 4 : G.P. for Endowments

**JUDGMENT**

**Dt.09.12.2022**

***(Prashant Kumar Mishra, CJ)***

This intra-court appeal would call in question the legality and validity of the order dated 25.03.2022 passed by the learned single Judge, dismissing the writ petition preferred by the petitioners seeking issuance of a writ, order or direction declaring the action of the respondents, particularly, that of respondents 2 to 5 in shifting/relocating the idol/deity of "Sri Mahankali Ammavaru" installed on 15.03.1976 in

accordance with the Hindu Agamasastras, rites and rituals from the sanctum sanctorum of Sri Mahankali Ammavari temple situated at Issappalem village, hamlet of Mulakaluru, Narasaraopet Mandal, Guntur District and also the tomb with bust of Gunji Chukkamma from the place now located within the precincts of the temple, on the pretext of reconstruction (Jirnoddarana), as illegal, arbitrary, opposed to Hindu dharma, faith, rituals and sentiments of the devotees of the locality in particular and all over the State in general and the objects and reasons of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, "the 1987 Act") and violative of Articles 25 and 26 of the Constitution of India and consequently direct respondents 2 to 5 not to relocate/shift the idol/deity of "Sri Mahankali Ammavaru" from the sanctum sanctorum of the temple as existing now on the ground and the tomb with bust of Gunji Chukkamma from the present location in the premises of the temple situated at Issapalem village, hamlet of Mulakaluru, Narasaraopet Mandal, Guntur District.

2. The learned single Judge relied on the judgment rendered by the Hon'ble Supreme Court in **Bishwanath v.**

**Thakur Radha Ballabhji**, reported in **AIR 1967 SC 1044**, to hold that the writ petition is maintainable. It is also held, in petitioners' favour, that Articles 25 and 26 of the Constitution of India protect the rights of the petitioners to ensure that the methods of worship and principles of temple construction and maintenance followed by the denomination of the petitioners, which are an essential part of their religious denomination, are followed and they are entitled to approach this court in the event of any complaint of violation of these rights. However, on merits, the learned single Judge has declined to interfere in the matter on findings that translocation of deity to another place is permissible as long as the said translocation is done without a mala fide intention and with all due respect and appropriate ceremonies being conducted for the said purpose and further that the petitioners have not relied upon any specific Agamasastra or any passage of any Agamasastra to support their stand against the translocation of deity of "Sri Mahankali Ammavaru" and, in addition, that the petitioners could not demonstrate that translocation of the idol would be violative of the religious practices of the respondent-temple.

**PETITIONERS' CASE:**

3. The mother of petitioner No.1 Gunji Chukkamma, who was originally native of Issappalem village, Narasaraopet Mandal, Guntur District, settled at Khammam town after the death of her husband and petitioner No.2 is closely associated with petitioner No.1. Both of them claim to be ardent devotees of "Sri Mahankali Ammavaru". They constructed a temple of "Sri Mahankali Ammavaru" at Issappalem village and got installed idol of deity and goddess "Sri Mahankali Ammavaru" at the vacant site situated immediately on the East of the main road running from Narasaraopet to Sattenapalli, the temple facing West. The idol was installed on 17.03.1976 in accordance with Hindu Agamasastras and Hindu rites and rituals were also performed at the time of installation of the deity by vedic scholars and purohiths by chanting veda mantras. An additional extent of 75  $\frac{3}{4}$  cents in Sy.No.57A of Issappalem village, at the place where the idol was installed, was purchased on 31.05.1976 by Gunji Chukkamma, mother of petitioner No.1, and petitioner No.2. Temple was constructed on the said site in due course of time and, as such, they were recognized and became the

hereditary trustees of the said temple. The idol was installed at an auspicious time amidst the chanting of holy mantras and as per Hindu Agamasastras. "Sri Mahankali Ammavaru" is believed to be a very powerful deity by the devotees in and around the locality and the adjacent districts and they have immense faith in her, as their desires were fulfilled after offering prayers to her. Later Sikhara Kalisham was installed over the temple in accordance with Hindu rituals and ceremonies, which is substantiated by pamphlet dated 28.03.1983 and names of both the petitioners are engraved as hereditary trustees of the temple and they have been paying land revenue for the landed property of the temple. A further area of 17 ½ cents was purchased by registered sale deed dated 07.01.1985. Petitioners are, thus, persons interested in the welfare and development of the temple and poojas and Nitya Naivedya Deeparadhana are being offered to "Sri Mahankali Ammavaru" and other religious activities are being performed in the above temple under their supervision.

3.1 On the request of the mother of petitioner No.1, the Assistant Commissioner, Endowments vide order R.C.No.A5/11338 of 1996 dated 19.10.1996, after due

enquiry, passed a reasoned order recognizing petitioner No.1 as founder trustee of the said temple. After the death of Gunji Chukkamma, her statue (bust) was installed in the premises of the temple. In reply to a query made under the Right to Information Act, the Assistant Commissioner, Guntur, supplied information stating that the mother of petitioner No.1 and petitioner No.2 managed the said temple as hereditary trustees. However, subsequently, respondent No.5 took over the management of the temple after the order passed by respondent No.4 was kept in abeyance.

3.2 It is the contention of the petitioners that respondent No.5 is making resolute efforts to demolish the temple on the pressure exerted by local politicians of the ruling party and started collecting donations on the pretext of reconstructing the temple without any reasonable cause. Construction of the temple is technically good and there is neither necessity nor any valid reason to demolish it. At the most, if the Department is interested, it can as well develop the temple without touching the sanctum sanctorum of the deity and tomb of Gunji Chukkamma, original founder of the temple. Respondent No.5 convened a meeting inviting petitioner No.1

and the local public; however, local public did not attend the meeting except political leaders and their followers, who are more interested in collecting donations and amassing wealth on the premise of reconstruction of the temple. Official respondents 2 to 5 yielded to the pressure of the politicians and are proceeding ahead for the reconstruction. Petitioners and other devotees earnestly believe that the original idol which was installed in 1976 possessed immense power; therefore, it should not be shifted from the present holy place installed at an auspicious time, to any other place.

3.3 According to the petitioners, ancient and famous temples at any place situated in India are not shifted nor the idols removed to other places. Therefore, the said action of the respondents in shifting the idol on the pretext of reconstruction of the temple is illegal, unlawful, opposed to Hindu faith, Dharma, belief and sentiments of the devotees of the locality, objects of the 1987 Act and Articles 25 and 26 of the Constitution of India.

**RESPONDENTS' CASE:**

4. Respondents 4 and 5 filed separate counter-affidavit before the learned single Judge. The sum and substance of

their stand in the counter-affidavit is that the tomb (bust) of Gunji Chukkamma is not proposed to be relocated and the relocation of Moolavirat of "Sri Mahankali Ammavaru" is proposed to be done after taking opinion from experts and there is no Agama violation in proposing to shift Moolavirat. It is the specific stand of the respondents that the temple was constructed around 45 years back and is in dilapidated state and moreover it is closer to the road and there is around 300 sq. yards of vacant site belonging to the temple, as such, as and when there is huge rush, it has become difficult to maintain the devotees, as they are standing on the R&B road blocking the Narasaraopet-Sattenapalli highway. It is proposed to construct a stone-carved temple in the open place behind the temple. At the present place where the deity is erected, same will be utilized by installing a Sri Chakram after following the Agamas and rituals and Kumkuma Archana will be done on daily basis at the said place. The temple will be moved around 25-30 meters back in a stone-carved architectural temple; as such, the temple will last for the years to come. The writ petition is filed only to demonstrate petitioners' authority over the temple, without there being any substantive cause of action.

5. It is admitted in the counter-affidavit of respondent No.4 that the temple is famous for Annaprasanams, Aksharabyasams etc. According to the respondents, as per Agamasastra, human-erected idols can be re-erected/shifted after following due procedure, but coming to Swayambu temples, the same is impermissible unless there is a way shown in the Agamas and that in similar circumstances, the Peddamma Ammavari temple in Hyderabad was reconstructed and the Moolavirat was re-located because of paucity of place and even in the Jogulamba Ammavari temple, which is a Shakti Peetam, the Moolavirat was shifted back after reconstruction of the temple; as such, shifting the present Moolavirat is in the interest of devotees and wellbeing of the village. If the same is done, it will be convenient for worship including ingress and egress to the temple and it will save the devotees from suffocation inside the sanctum sanctorum, as there is no flow of free air inside the sanctum sanctorum. It is further the stand of the respondents that if the proposed construction and shifting of the Moolavirat is allowed after following all the rituals and agamas, the temple will be at its highest glory, as the proposed construction will be done after following the directions of the Agama advisors who have

advised to carve the stones so that future generations understand the greatness of Hindu mythology.

6. Respondent No.5 would also admit that since after coming into existence of the temple in the year 1976, faith of the devotees in the Goddess in fulfillment of their wishes, has gained momentum tremendously throughout the State and in the passage of time, "Sri Mahankali Ammavaru" has become popular deity. The temple was consecrated and construction with installation of "Sri Mahankali Ammavaru" in the premises and the glory of the persons who constructed the temple continues to be ever remembered and enthroned in the hearts of the devotees of the Goddess. The relocation is aimed at relieving the hardship of the devotees while visiting the temple and redeeming their vows to the Goddess devoutly and to enable them to experience spiritual ecstasy and contemplation. The shifting/relocation is proposed in strict and scrupulous observance of Agamasastras after obtaining views and opinions of Agama Pandits and Agama Advisors.

7. Along with the counter-affidavit of respondents 4, 5 & 6 filed in the writ appeal, opinion of the experts, Agama Pandits etc., have been submitted, wherein they have approved the

proposed relocation of the deity on the ground that the temple was established previously by human and a new temple can be constructed and reestablishment can be done as per Saiva Agama Sastram. The first opinion is of Mr. Allavarapu Subrahmanya Deekshitavadhani, TTD Vedapandit. The second opinion is of Mr. Kallakuri Satya Venkatasubrahmanya Sivacharya and the third opinion is from Sri Bala Tripura Sundari Saivagama Vidya Peetham. Mr. Kallakuri Satya Venkatasubrahmanya Sivacharya has gone to the extent of questioning the construction of the present temple, for which no opinion was sought from him and by doing so, it is eroding the faith of the devotees, which is emphatically and categorically admitted by the official respondents in their counter-affidavit before the learned single Judge. Same is the case with the opinion from Sri Bala Tripura Sundari Saivagama Vidya Peetham.

**ISSUE IN THE WRIT APPEAL:**

8. The issue which we are now required to consider, on the basis of the material available before us, is the permissibility of such relocation of Moolavirat, i.e. the main deity vis-à-vis the permissibility under the religious practices without

violating and offending the faith of the devotees and diluting the spirituality and belief in "Sri Mahankali Ammavaru" that she will fulfill their wishes.

9. The principle on the subject has been dealt with and delineated by the Hon'ble Supreme Court in ***Sri Venkataramana Devaru and others v. State of Mysore and others***, reported in ***AIR 1958 SC 255***. While discussing as to what is a matter of religion within the protection of Article 26(b) of the Constitution, the Hon'ble Supreme Court referred to the judgment rendered in ***Commissioner, Hindu Religious Endowments, Madras v. Lashmindra Thirtha Swamiar***, reported in ***air 1954 SC 282***, wherein it was held that it embraced not merely matters of doctrine and belief pertaining to the religion but also the practice of it, or to put it in terms of Hindus theology, not merely its Gnana but also its Bhakti and Karma Kandas. The Supreme Court quoted the observations of Mukherjea, J (as he then was) in ***Lakshmindra Thirtha Swamiar*** (supra) in the following manner:

"...in the first place, what constitutes the essential part of a religion is primarily to be ascertained with

reference to the doctrines of that religion itself. If the tenets of any religious sect of the Hindus prescribe that offerings of food should be given to the idol at particular hours of the day, that periodical ceremonies should be performed in a certain way at certain periods of the year or that there should be daily recital of sacred texts or oblations to the sacred fire, all these would be regarded as parts of religion and the mere fact that they involve expenditure of money or employment of priests and servants or the use of marketable commodities would not make them secular activities partaking of a commercial or economic character; all of them are religious practices and should be regarded as matters of religion within the meaning of Article 26(b).”

10. It was settled in ***Sri Venkataramana Devaru*** (supra) that the matters of religion in Article 26(b) include even practices which are regarded by the community as part of its religion and that it has to be considered whether exclusion of a person from entering into a temple for worship is a matter of religion according to Hindu Ceremonial Law. It was held therein that there has been difference of opinion among the writers as to whether image worship had a place in the religion of the Hindus, as revealed in the Vedas; on the one hand, we have hymns in praise of Gods, and on the other, we have

highly philosophical passages in the *Upanishads* describing the Supreme Being as omnipotent, omniscient and omnipresent and transcending all names and forms. When we come to the *Puranas*, we find a marked change. The conception had become established of Trinity of Gods, Brahma, Vishnu and Siva as manifestations of the three aspects of creation, preservation and destruction attributed to the Supreme Being in the *Upanishads*. The Supreme Court, for example, quoted the passage in the *Taittiriya Upanishad, Brigu Valli, First Anuvaka*, which reads as under:

“That from which all beings are born, by which they live and into which they enter and merge.”

The Gods have distinct forms ascribed to them and their worship at home and in temples is ordained as certain means of attaining salvation. These injunctions have had such a powerful hold over the minds of the people that daily worship of the deity in temple came to be regarded as one of the obligatory duties of a Hindu. It was during this period that temples were constructed all over the country dedicated to Vishnu, Rudra, Devi, Skanda, Ganesha and so forth, and worship in the temple can be said to have become the practical religion of all sections of the Hindus ever since. With the growth in

importance of temples and of worship therein, more and more attention came to be devoted to the ceremonial law relating to the construction of temples, installation of idols therein and conduct of worship of the deity, and numerous are the treatises that came to be written for its exposition. These are known as Agamas, and there are as many as 28 of them relating to the *Saiva* temples, the most important of them being the *Kamikagama*, the *Karanagama* and the *Suprabhedagama*, while the *Vikhanasa* and the *Pancharatra* are the chief *Agamas* of the *Vaishnavas*. These Agamas, contain elaborate rules as to how the temple is to be constructed, where the principal deity is to be consecrated, and where the other *Devatas* are to be installed and where the several classes of worshippers are to stand and worship.”

11. In ***His Holiness Srimad Perarulala Ethiraja Ramanuja Jeeyar Swami etc. v. the State of T.N.***, reported in ***AIR 1972 SC 1586***, a Constitution Bench of the Hon'ble Supreme Court would observe that institution of temple worship has an ancient history and according to Dr. Kane, temples of deities had existed even in the 4th or 5th century B.C. (See *History of Dharmasastra* Vol. II, Part II, p. 710). With the construction of temples the institution of Archakas also came into existence, the Archakas being

professional men who made their livelihood by attending on the images. Just when the cult of worship of Siva and Vishnu started and developed into two distinct cults is very difficult to say, but there can be no doubt that in the times of the Mahabharata these cults were separately developed and there was keen rivalry between them to such an extent that the Mahabharata and some of the Puranas endeavoured to inculcate a spirit of synthesis by impressing that there was no difference between the two deities. (See p. 725 supra.) With the establishment of temples and the institution of Archakas, treatises on rituals were compiled and they are known as "Agamas". The authority of these Agamas is recognised in ***Sri Venkataramana Devaru*** (supra).

12. It was also observed therein that, where the temple was to be constructed as per directions of the Agamas, the idol had to be consecrated in accordance with an elaborate and complicated ritual accompanied by chanting of mantras and devotional songs appropriate to the deity were all provided in the Agamas. On the consecration of the image in the temple the Hindu worshippers believe that the Divine Spirit has descended into the image and from then on the image of the

deity is fit to be worshipped. It is believed that when a congregation of worshippers participates in the worship a particular attitude of aspiration and devotion is developed and confers great spiritual benefit. The second object is to preserve the image from pollution, defilement or desecration. It is part of the religious belief of a Hindu worshipper that when the image is polluted or defiled the Divine Spirit in the image diminishes or even vanishes. That is a situation which every devotee or worshipper looks upon with horror. Dr Kane has quoted the Brahmapurana on the topic of Punah-pratistha (*Re-consecration of images in temples*) at p. 904 of his History of Dharmasastra referred to above. The Brahmapurana says that "when an image is broken into two or is reduced to particles, is burnt, is removed from its pedestal, is insulted, has ceased to be worshipped, is touched by beasts like donkeys or falls on impure ground or is worshipped with mantras of other deities or is rendered impure by the touch of outcastes and the like — in these ten contingencies, God ceases to indwell therein".

13. The Hon'ble Supreme Court also observed that protection of Articles 25 and 26 of the Constitution is not

limited to matters of doctrine. They extend also to acts done in furtherance of religion and, therefore, they contain a guarantee for rituals and observances, ceremonies and modes of worships which are integral parts of the religion.

14. In ***Narayan Bhagwantrao Gosavi Balajiwale v. Gopal Vinayak Gosavi and others***, reported in ***AIR 1960 SC 100***, the Hon'ble Supreme Court quoted with approval a judgment rendered by the Bombay High Court in ***Hari Raghunath Patvaedhan***, reported in ***AIR 1920 Bom 67***. It was held by the Bombay High Court that under Hindu law, the manager of a public temple has no right to remove the image from the old temple and install it in another new building. The Hon'ble Supreme Court noted the interesting feature that in the case before the Bombay High Court, Dr. P.V. Kane, who is considered to be an authority on religious text relating to Agamas, in his course of argument, stated as follows:

"According to the Pratishta-Mayukha of Nilkantha and other ancient works an image is to be removed *permanently* only in case of unavoidable necessity, such as where the current of a river carries away the image. Here the image is intact. It is only the temple that is dilapidated. For repairing it, the image need not necessarily be removed. Even

if it may be necessary to remove the image, that will be only temporarily. The manager has under Hindu law no power to effect permanent removal of an image in the teeth of opposition from a large number of the worshippers. In the instances cited by the appellant, worshippers had consented to the removal. Permanent removal of an image without unavoidable necessity is against Hindu sentiment."

15. The Hon'ble Supreme Court, in the said judgment, further quoted Shah, J (Crump, J), who observed as follows:

"It is not disputed that the existing building is in a ruinous condition and that it may be that for the purpose of effecting the necessary repairs the image may have to be temporarily removed. Still the question is whether the defendant as manager is entitled to remove the image with a view to its installation in another building which is near the existing building. Taking the most liberal view of the powers of the manager, I do not think that as the manager of a public temple he can do what he claims the power to do viz. to remove the image from its present position and to install it in the new building. The image is consecrated in its present position for a number of years and there is the existing temple. To remove the image from that temple and to install it in another building would be practically putting a new temple in place of the

existing temple. Whatever may be the occasions on which the installation of a new image as a substitute for the old may be allowable according to the Hindu law, it is not shown on behalf of the defendant that the ruinous condition of the existing building is a ground for practically removing the image from its present place to a new place permanently. We are not concerned in this suit with the question of the temporary removal which may be necessary when the existing building is repaired.”

16. After quoting the above, the Hon’ble Supreme Court noted that the case is an authority for the proposition that the idol cannot be removed permanently to another place, because that would be tantamount to establishing a new temple. However, if the public agreed to a temporary removal, it could be done for a valid reason.

17. In ***Pramatha Nath Mullick v. Pradyumna Kumar Mullick and another***, reported in ***AIR 1925 PC 139***, the issue was whether a deed of trust creating a temple also created an injunction against removal of the deity. The Privy Council analyzed this provision and stated that the last condition made the idol immovable, except upon providing for the dedicatee another Thakur Bari of the same or larger

value. The Hon'ble Supreme Court has reproduced the same in **Narayan Bhagwantrao Gosavi** (supra) which is as under:

"The true view of this is that the will of the idol in regard to location must be respected. If, in the course of a proper and unassailable administration of the worship of the idol by the Shebait, it be thought that a family idol should change its location, the will of the idol itself, expressed through his guardian, must be given effect to."

18. The Hon'ble Supreme Court **Narayan Bhagwantrao Gosavi** (supra) further observed that their Lordships ordered the appointment of a disinterested next friend, who was to commune with the deity and decide what course should be adopted, and later the instructions of the deity vouchsafed to that representative were carried out.

19. In **Chockalingam (now died) v. Nambi Pandiyan & others**, reported in **2010 SCC OnLine Mad 5985**, a single Judge of the Madras High Court relied upon **Narayan Bhagwantrao Gosavi** (supra) wherein it was held that idol of Lord Shiva cannot be removed permanently to another place, because, that would tantamount to establishment of a new Temple, but however, if the public agreed to temporarily

remove the Idol, it can be done for valid reasons and in the present case, there is no document to show that the removal was only temporary and there is also no document to show that the public agreed for temporary removal. The learned single Judge of Madras High Court, thus, concluded that idol cannot be removed.

20. Renowned author Dr. Pandurang Vaman Kane (P.V. Kane) in his treatise *HISTORY OF DHARMASASTRA* as part of Government Oriental Series, Bhandarkar Oriental Research Institute, Poona, Vol. II Part II Chapter XXVI, has discussed the concept of *Punah-pratishta* (Re-consecration of images in temples). The author would discuss ten contingencies as discussed in our present judgment in the previous paragraph when God ceases to dwell therein. The Brahmapurana quoted by the Devapratisthatattva and the Nirnayasindhu says when an image is broken into two or is reduced to particles, it should be removed according to *sastric* rules and another should be installed in its place. The book also deals with the issue of *Jirnoddhara* (rehabilitating old or dilapidated temples). According to the author, the subject of *Jirnoddhara* is closely connected with the rituals of *Punah-*

*pratishta* (Re-consecration of images in temples) and is dealt with in the Agnipurana, wherein extensive procedure for *Jirnoddhara* is provided. *Jirnoddhara* is done when the image in a temple or a linga is burnt, or reduced to particles or is removed to another place. The Agnipurana says that if an image or linga is carried off by the strong current of a river, it may be re-consecrated elsewhere according to the rites prescribed in the sastras. The Agnipurana further mandates that a linga that is reputed to have been established by the asuras (like Banasura) or famous sages or by gods or by those who were expert in Tantra should not be removed to another place, whether it be worn out or broken, even after the performance of prescribed rites.

**CONCLUSION:**

21. Thus, according to the Dharmasastra dealing with the principles of *Punah-pratishta* (Re-consecration of images in temples) and *Jirnoddhara*, when an image is polluted on occurrence of ten contingencies, God ceases to dwell therein requiring re-consecration of image in temples. However, when the original consecration has been done by those who were experts in tantra/rituals, the image should not be

removed to another place whether it be worn out or broken, even after the performance of prescribed rites. It also appears settled that relocation of the deity from the place where it was originally consecrated as per Dharmic rites, rituals and worship, would amount to construction of a new temple, which is not permissible in Dharmasastra. Even for *Jirnoddhara*, the image should not be removed to another place. It can be removed temporarily when the public so consents for effecting repairs in the temple. However, in no case, the image can be permanently shifted to another place. Doing so would be against the doctrine of Dharmasastra and belief pertaining to Hindu religion as also the practice of religion as is understood and followed in terms of Hindu theology. Since the matter of religion within the protection of Article 26(b) of the Constitution includes even practices which are regarded by the community as part of its religion, any violation of the rituals, beliefs or practices mandated by Dharmasastra, Agnipurana and Agamas, would be in violation of the constitutional provision contained in Article 26(b) of the Constitution.

22. In the case at hand, the relocation/re-consecration of the idol/deity of "Sri Mahankali Ammavaru" is proposed not for any reason approved in the Dharmasastra, but for providing more comfort and convenience to the members of public and devotees as also for the anticipated widening of road. Such contingencies have not been approved by Dharmasastra including Agnipurana to be a valid reason for relocation and re-consecration of the idol and the same would amount to construction of a new temple. With regard to plea of structural weakness of the existing structure, which is raised by the respondents, this Court notices that except for "Fitness Report, dated 13.12.2021" issued by a private architect, no material is filed to justify the plea that the existing structure is weak and is likely to collapse. Even the certificate, dated 13.12.2021, does not state that there is an imminent threat of the existing structure collapsing. This certificate is also obtained long after the writ petition was filed. Since, admittedly, the temple is famous for Annaprasanams, Aksharabyasams etc., and the idol was installed at an auspicious time amidst the chanting of holy mantras and as per Hindu Agamasastras and "Sri Mahankali Ammavaru" is believed to be a powerful deity to the devotees

in and around the locality, relocation of the idol to a different place would hurt their sentiments, feelings and spiritual belief. Therefore, the proposed relocation on the reasoning assigned by the respondents in the counter-affidavit does not appear to be permissible according to Dharmasastra, thereby violating Article 26(b) of the Constitution. Therefore, the order passed by the learned single Judge dismissing the writ petition deserves to be, and is, hereby, set aside.

23. Resultantly, the writ appeal and writ petition are allowed and it is declared that the action of respondents 2 to 5 in shifting/relocating the idol/deity of "Sri Mahankali Ammavaru" installed on 15.03.1976 as also the tomb with bust of Gunji Chukkamma from the place now located within the precincts of the temple on the pretext of reconstruction, is illegal, arbitrary, opposed to Hindu dharma, faith, rituals and sentiments of the devotees. As a corollary, respondents 2 to 5 are directed not to relocate/shift the idol/deity of "Sri Mahankali Ammavaru" from the sanctum sanctorum of the temple as existing now on the ground and the tomb with the bust of Gunji Chukkamma located within the precincts of the

temple, situated at Issappalem village, hamlet of Mulakaluru,  
Narasaraopet Mandal, Guntur District.

No order as to costs. Pending miscellaneous  
applications, if any, shall stand closed.

**Sd/-**  
**PRASHANT KUMAR MISHRA, CJ**

**Sd/-**  
**D.V.S.S. SOMAYAJULU, J**

MRR