

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2604 of 2015

O R D E R:

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Aggrieved by the order dated 02.07.2015 passed in C.M.A.No.10 of 2015 on the file of the III Additional District Judge, Karimnagar, wherein and whereunder the order dated 01.06.2015 passed in I.A.No.39 of 2015 in O.S.No.3 of 2015 on the file of the Senior Civil Judge, Siricilla, was set-aside and the matter was remanded back to trial Court, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

The facts in issue are as under:

The petitioner herein filed O.S.No.3 of 2015 seeking perpetual injunction restraining the respondents herein, their agents, workmen, henchmen and supporters from entering into and interfering with the peaceful possession and enjoyment of the plaintiffs society over the land admeasuring 1089 square yards including structures i.e. Rehoboth Prayer House and the residential house of the Pastor situated at H.No.8-6-90 and 8-6-91, Markandeya Nagar, Vemulavada. Along with the suit the petitioner society also filed I.A.No.39 of 2015 seeking ad-interim temporary injunction. The learned trial Judge granted temporary injunction restraining the respondents from interfering with the possession and enjoyment of the petitioner society over the schedule property, pending disposal of the suit. Aggrieved by the same, the respondents herein preferred C.M.A.No.10 of 2015 before the III Additional District Judge, Karimnagar. By an

order dated 02.07.2015 the learned Additional District Judge passed the following order:

“In the result, the C.M.A. is disposed of accordingly without going into the merits and the order in I.A.No.39 of 2015 is hereby set aside and the case is remanded back to trial Court. Both the parties are directed to co-operate the Court for disposal of the case. The learned Senior Civil Judge, Siricilla shall endeavour to dispose of the I.A., as early as possible from the date of receipt of copy of the order. Both the parties are further directed to maintain status-quo till the trial Court passes the fresh orders.”

Challenging the said order, the petitioner society preferred the present revision.

Learned counsel for the petitioner would submit that the order passed by the lower appellate Court in C.M.A.No.10 of 2015 is being devoid of any reasons and has to be set-aside. It is contended that instead of discussing the material available on record, the lower appellate Court erroneously set aside the order and remanded the matter back to the trial Court. He submits that the society was registered on 22.02.1971 with registration No.114 of 1971. He further submits that the resolution passed by the entire general body of the society to dissolve the society was rejected by the District Registrar on the ground that the said resolution was not in accordance with Section 24 of the Andhra Pradesh Societies Registration Act, 2001. Aggrieved by the same W.P.No.16430 of 2008 was filed and the same was disposed of on 24.06.2009 and the operative portion of the order is as under:

“On the aforesaid analysis, this Court finds no infirmity in the conduct of the 1st respondent addressing the

impugned letter dated 19.02.2008 to the 2nd respondent but holds and declares that the information in the said letter that the society of trustees of Indigenous Churches in India Regd. No.114 of 1971 is in vogue is an information that is erroneous insofar as the 1st respondent is concerned, having regard to the special resolution passed by the society on 23.03.2004 and intimation of such resolution furnished to the 1st respondent on 24.03.2004.”

In view of the above order the District Registrar, by its letter dated 02.07.2014 ordered that the resolution dated 23.03.2004 is deemed to have been taken into record and withdrawn the letters dated 20.09.2013, 18.07.2013, 07.11.2013, 25.11.2013, 31.01.2014 and 18.02.2014 issued by their office earlier. He further submits that the said letter dated 02.07.2014 was challenged by the petitioner society by filing W.P.No.19191 of 2014. By an order, dated 10.07.2014, this Court ordered that no further proceedings in pursuance of the impugned order dated 02.07.2014 shall be taken up pending further orders in the writ petition and the interim order was being extended from time to time. On 13.10.2014 again the District Registrar, Hyderabad, addressed letter to the Executive Member of the petitioner society stating that it is not open to his office to give any information about the dissolution of the society, as it would amount to interfering with the order passed in W.P.No.19191 of 2014. Hence, learned counsel for the petitioner submits that the allegations made alleging dissolution of society is false.

On the otherhand, Sri S.Ramachandra Rao, learned Senior Counsel appearing for the respondents would contend that filing of the suit itself is illegal as a dissolved society

cannot be entitled to file the suit. It is his case that the resolution was passed by the entire general body on 23.03.2004, wherein it was resolved to dissolve the society of the trustees of Indigenous Churches in India and transfer the assets and liabilities if any to the Indigenous Churches in India Trust by 10.a.m. on 25.03.2004. It is his case that the said resolution was signed by one Thomothy at Sl.No.22 who gave a sworn affidavit before the Court of II Additional Chief Judge, City Civil Courts, Hyderabad in I.A.No.2400 of 2008 in O.S.No.365 of 2008 stating that he was a member of the society of Trustees of Indigenous Churches in India and his name is shown at Sl.No.34 at the Special General Body Meeting held on 23.03.2004, that he understood the agenda "Future of the society" as meaning dissolution of the society. According to him, the entire issue was thoroughly discussed and 32 out of 35 members present unanimously resolved to dissolve the society and vast majority of the devotees of the Hebron are in favour of continuing the trust.

In support of his plea the Senior Counsel relied upon various orders passed by this Court to show that the society was dissolved. According to him in W.P.No.16430 of 2008 this Court by its elaborate Judgment dated 24.06.2009 suspended the letter dated 19.02.2008 issued by the first respondent. Against the said order a Writ Appeal No.960 of 2009 came to be filed, which was dismissed as withdrawn on 02.07.2010. He also placed on record the letters dated 18.07.2013, 07.11.2013, 25.11.2013, 31.01.2014 and 18.02.2014 issued by the Registrar of Societies, Hyderabad, stating that as per their records the Society of Indigenous Churches in India, Regd. No.114 of 1971

is not dissolved by any Court which were challenged through various writ petitions. W.P.No.8277 of 2014 was filed seeking suspension of the proceedings issued by the Registrar of Societies in Lr.No.5439/RTI/2-013, dated 07.11.2013, and Lr.No.318/Soc/2014, dated 31.01.2014, W.P.No.28349 of 2013 was filed seeking suspension of the letter dated 20.09.2013, and W.P.8291 of 2014 was filed seeking suspension of the letter No.10869-114-1971/Soc/2008, dated 18.07.2013.

Apart from that, the learned Senior Counsel also placed on record the orders passed in O.S.No.365 of 2008 on the file of the II Additional Chief Judge, City Civil Court, Hyderabad, orders passed in I.A.No.635 of 2013 in O.S.No.1665 of 2013 on the file of the X Junior Civil Judge, City Civil Court, Hyderabad and orders passed in I.A.No.912 of 2013 in O.S.No.248 of 2013 on the file of the Additional Junior Civil Judge, Malkajgiri. In view of the orders referred to above, he strenuously contends that the C.R.P. itself is not maintainable as it was filed in the name of the Society which was dissolved nine years prior to filing of the present suit.

A perusal of the record would disclose that the society was registered on 22.02.1971 with registration No.114 of 1971. A resolution was passed by the entire general body of the society to dissolve the society and its assets were transferred to Indigenous Churches in India Trust. The said resolution was communicated to the District Registrar, but the same was rejected on the ground that the said resolution was not in accordance with Section 24 of the Andhra Pradesh Societies Registration Act, 2001. Aggrieved by the same W.P.No.16430 of 2008 was filed and the same was disposed of on 24.06.2009

and the operative portion of the order is as under:

“On the aforesaid analysis, this Court finds no infirmity in the conduct of the 1st respondent addressing the impugned letter dated 19.02.2008 to the 2nd respondent but holds and declares that the information in the said letter that the society of trustees of Indigenous Churches in India Regd. No.114 of 1971 is in vogue is an information that is erroneous insofar as the 1st respondent is concerned, having regard to the special resolution passed by the society on 23.03.2004 and intimation of such resolution furnished to the 1st respondent on 24.03.2004.”

In view of the above order the District Registrar, by its letter dated 02.07.2014 ordered that the resolution dated 23.03.2004 is deemed to have been taken into record and withdrawn the letters dated 20.09.2013, 18.07.2013, 07.11.2013, 25.11.2013, 31.01.2014 and 18.02.2014 issued by the office of the District Registrar. The said order was challenged by the petitioner society by filing W.P.No.19191 of 2014. By an order, dated 10.07.2014, this Court ordered that no further proceedings in pursuance of the impugned order dated 02.07.2014 shall be taken up pending further orders in the writ petition and the interim order was being extended from time to time. On 13.10.2014 again the District Registrar, Hyderabad, addressed letter to the Executive Member of the petitioner society stating that it is not open to his office to give any information about the dissolution of the society, as it would amount to interfering with the order passed in W.P.No.19191 of 2014. Hence, learned counsel for the petitioner submits that the allegations made alleging dissolution of society is false.

As seen from the record, the impugned order is bereft of any reasons. No reasons are given by the lower appellate Court as to how the order passed in I.A.No.39 of 2015 in O.S.No.3 of 2015 on the file of the Senior Civil Judge, Siricilla, is illegal, improper or incorrect. Without assigning a single reason, the order passed in I.A.No.39 of 2015 was set-aside and the matter was remanded back to the trial Court directing the Senior Civil Judge, Siricilla, to dispose of the I.A. as early as possible apart from directing both the parties to co-operate with the Court for disposal of the case. Though the learned Senior Counsel for the respondents strenuously contends about the maintainability of the suit and C.R.P., in view of the fact that the impugned order is bereft of reasons, the order under challenge is set-aside and the learned III Additional District Judge, Karimnagar, is directed to pass a reasoned order in C.M.A.No.10 of 2015 after giving an opportunity of hearing both the petitioner and respondents, as a early as possible, preferably within a period of four to five weeks, from the date of receipt of a copy of the Order. Till such time, the status-quo as on today shall be in force. The Registry is directed to communicate the copy of the order forthwith to the concerned Court.

With the above direction, the C.R.P. is disposed of. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

C. PRAVEEN KUMAR, J

04.11.2015

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