

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.968 of 2015

ORDER:

Heard Sri B.Sesi Bhushan Rao, learned counsel for the petitioners and Sri Y.Jayaraj, learned counsel for the respondents.

2. This Revision Petition is filed challenging the order dt10-02-2015 in I.A.No.174 of 2014 in SROP No.60 of 2014 of the First Additional District Judge, Kurnool, refusing to grant interim injunction in favour of the petitioners restraining the respondents from interfering with the performance of their duties as office bearers of 1st petitioner-Church.

3. The 1st petitioner-Church is a registered society registered under the Societies Registration Act, 1860. The elections were held to the posts of President, Secretary and Treasurer etc. of the said Church on 22-02-2014. In the said election, petitioner Nos.2 to 6 got elected as office bearers. They contended that in spite of they being elected as office bearers of the Managing Committee of the Church in the said election, the respondents are preventing them from functioning. They alleged that the respondents had lodged a complaint against them with a view to illegally and highhandedly

prevent the petitioners from discharging their obligations as duly elected office bearers and therefore they filed the above O.P. and also I.A. therein and sought relief of temporary injunction pending O.P. to prevent the respondents from interfering with the discharge of their duties.

4. The respondents filed a counter contending that 2nd petitioner had been suspended temporarily from the post of President and therefore, 2nd petitioner is not entitled to represent the Church. It is contended that petitioners are not honest and they have approached Court with unclean hands suppressing the material facts. The respondents denied that on 13-07-2014, they had unauthorizedly entered into the Church premises with several other members and prevented the petitioners from functioning as office bearers with the said Church. They pointed out that long before 13-07-2014 a complaint was given by one of the Church members by name M.Bhaskar on the basis of which, a case in Cr.No.155/2014 under Sections 406 and 409 IPC of II Town police station, Kurnool was registered against petitioner Nos.2 and 3. They alleged that 80 to 100 members of the General Body of the Church made a representation making allegations against petitioners to the Standing Committee and requested them to take necessary action against them; that in a meeting convened on 10-07-2014, the Standing Committee discussed about the complaint given by the

other members against the petitioners; and it passed a resolution to take disciplinary action against them by suspending them from their posts temporarily till the charges leveled against them are enquired into and cleared. It is also contended that the resolution was put before the full congregation of the members of the Church in the Sunday service on 13-07-2014 wherein the petitioners were also present and that none of the petitioners raised any objection in the said meeting and the resolution is deemed to have been approved by the congregation. It is also stated that 5th respondent requisitioned the service of the police anticipating trouble from the petitioners and the police were present through the Sunday service. It is contended that since the petitioners had not been acting as office bearers, they have no *locus standi* to file this petition.

5. By order dt.10-02-2015, the trial Court declined to grant any relief to the petitioners by accepting the case set up in the counter affidavit filed by the respondents and also on the ground that a criminal case was registered against the petitioners as mentioned above. It held that by the date of filing of the petition seeking temporary injunction, the petitioner Nos.1 and 2 are not office bearers and they do not have *prima facie* or balance of convenience in their favour.

6. Challenging the same, this Revision Petition

is filed.

7. Learned counsel for the petitioners contended that no evidence has been adduced in the I.A.No.174 of 2014 by the respondents in support of the allegations mentioned in their counter affidavit; no bye-laws were referred to by the respondents in the counter affidavits filed before the Court below to *prima facie* show that the standing committee had the power to suspend the petitioner Nos.2 and 3 from their posts; and in the absence of any such material, the Court below could not have dismissed the I.A.

8. Learned counsel for the respondents supported the order passed by the Court below and contended that because of the filing of the criminal case against the petitioners and the suspension pending enquiry by the Standing Committee Members on 13-07-2014, the petitioner Nos.2 and 3 cannot be permitted to act as office bearers of the Church.

9. The learned counsel for the respondents has not disputed that the byelaws of 1st petitioner Church have not been relied upon or filed before the Court below to establish the power of the Standing Committee to suspend petitioner Nos.2 and 3 from their elected positions as President and Secretary of the 1st petitioner Church. Also no material is admittedly placed before the Court below by the respondents to establish that the

Standing Committee did suspend the petitioners on 13-07-2014 and the same was also put before the congregation of members who have also approved it.

10. Admittedly the petitioners have been elected as office bearers of Managing Committee of the 1st petitioner Church. Merely because of criminal case has been registered against them, in the absence of any specific provision in the byelaws preventing them from acting as office bearers, they cannot be so prevented by the respondents, particularly, when power of the Standing Committee to conduct such disciplinary proceedings or to suspend the petitioners has not been established by respondents by filing any material before the Court below.

11. In the absence of such material having been placed by the respondents, the Court below ought not to have refused to grant interim injunction in favour of the petitioners merely because the petitioners are under cloud. Therefore, the impugned order cannot be sustained.

12. The Civil Revision Petition is allowed and the order dt.10-02-2015 in I.A.No.174 of 2014 in SROP No.60 of 2014 of the First Additional District Judge, Kurnool is set aside and the said I.A. is allowed. No costs.

13. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 06-07-2015

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