

THE HON'BLE SRI JUSTICE K.C. BHANU

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CIVIL REVISION PETITION No.4281 OF 2014

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is directed against the Order and decree, dated 02.07.2014, in Interlocutory Application No.242 of 2014 in S.O.P.No.155 of 2014 passed by the II Additional District Judge, Guntur.

2. The aforesaid application filed under Order XXXIX Rules 1 and 2 and Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC') and Section 23 of the Societies Registration Act, 2001 to grant temporary injunction restraining respondent Nos.4 and 5, their men, followers, engineers, managers, workers, associates and directors from in any way entering into the petition schedule property and making constructions therein, was dismissed holding that the petitioner is not a member of the 1st respondent-society and therefore, he has no *locus standi* to question the lease deed and there was no *prima facie* case and balance of convenience in favour of the petitioner and no irreparable injury would be caused to the petitioner if the injunction is not granted. Challenging the same, the present revision is filed.

3. Learned counsel for the petitioner contended that respondent Nos.1 and 2 colluded with respondent Nos.4 and 5 and brought into existence the lease deed leasing the property to respondent No.4 and fabricated false, bogus and ante-dated documents; that the person, who executed the lease deed, is not competent under the bye-laws to execute the lease deed; that

respondent Nos.1 and 2 failed to discharge their duties as trustees to protect the Church properties and thereby caused crores of rupees loss to the Church and Christian community and therefore, he prays to set aside the impugned order and grant temporary injunction.

4. On the other hand, learned counsel for respondent Nos.4 and 5 contended that injunction restraining respondent Nos.4 and 5 and their men from entering into the petition schedule property cannot be granted because in pursuance of the lease deed, said to have been executed in the year 1997 by the President of Church, seven storeyed building was constructed along with three cellars after obtaining necessary permission from the Municipal Corporation and the building is going to be opened shortly; that if injunction is granted, it would cause irreparable injury to respondent Nos.4 and 5, therefore, the trial Court after considering the material on record rightly dismissed the same and that order needs no interference by this Court.

5. For grant of temporary injunction, three requirements are to be satisfied by the party, who approached the Court, viz., *prima facie* case, balance of convenience and irreparable injury if the injunction is not granted.

6. So far, *prima facie* case is concerned, admittedly, the petitioner is not a member of the 1st respondent Church and a categorical finding has been recorded to that effect. Even otherwise the petitioner herein failed to produce any document to show that he is a member of the Church so as to challenge the actions taken by the Executive Committee of the 1st respondent Church. So, the petitioner has no *prima facie* in his favour.

7. Coming to the balance of convenience, balance of convenience is not in favour of the petitioner because he kept quiet for all these years. The lease was granted in the year 1997 and the construction was commenced in the schedule property in the year 2010. If really the petitioner is an aggrieved person, he ought to have filed a suit for injunction in the year 2010 itself when the respondents commenced the construction. Therefore, the petitioner does not have any balance of convenience in his favour.

8. Coming to the third ingredient of irreparable injury, if injunction is not granted, the petitioner would not suffer any irreparable injury, which cannot be compensated in terms of money.

9. Therefore, all these aspects have been taken into consideration by the trial Court and dismissed the petition and that order needs no interference by this Court.

10. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE K.C. BHANU

Date:20.02.2015
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