

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 3786 of 2016

ORDER:

Challenging the order dated 5.7.2016 passed by the learned Principal Junior Civil Judge, Sullurpet, Nellore District, dismissing I.A.No.116 of 2016 in O.S.No.102 of 2010 filed by the petitioner/defendant under Order VII Rule 11 CPC seeking to reject the plaint on the ground of lack of jurisdiction to entertain the suit, the present Civil Revision Petition is preferred.

Sri V.S.K. Rama Rao, learned Counsel for the petitioner placing reliance on Sections 150 and 151 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') submits that the suit schedule property belongs to Sri Madvenkata Ramamurthy Swamula Vari Temple and in view of the statutory bar contained the in the Act, it is only the Endowments Tribunal which can adjudicate the disputes relating to the temple properties.

The suit in O.S.No.102 of 2010 was filed with a specific averment that due to family disputes, the revision petitioner/defendant had developed grudge against the respondent/plaintiff and he is causing obstructions in constructing the house in the suit schedule property and attempted to trespass into the suit schedule property, which was resisted by the respondent/plaintiff. The pleadings in Para 5 of the plaint reads as follows:

“ The plaintiff after obtaining permission from

all consent departments started the house construction in the plaint schedule property the defendant is no manner of right or title or interest over the plaint schedule property, he is causing the obstruction to the plaintiff in constructing of the house in the suit schedule property. As there were prior disputes between the families of the plaintiff and the defendant keeping the dispute in his mind the defendant developed grudge against the plaintiff's family and causing the troubles to the plaintiff in construction of house in the suit site, just two days back the defendant along with the men made attempts to trespass into the plaint schedule property and occupy the same by forcibly and the plaintiff resisted the high handed acts of the defendant with the help of the neighbours at a great difficulty then the defendant went away for openly proclaiming that he will occupy the plaint schedule house site by forcibly one day or other and he will not allow the plaintiff to construct house in the suit schedule site. The defendant is powerful man and haing large group of rowdy elements and the plaintiff is not a possession to resist the high handed acts of the defendant. Being the law abiding citizen the plaintiff constrained to file the present suit for permanent injunction against the defendant. Hence the suit."

A reading of the above pleadings leaves no manner of doubt that the suit has been filed by the first respondent/plaintiff alleging omissions and commissions on his part in his individual capacity and even the address shown in the cause title is 'R/o D.No.9-338, Sri Venkateswara Temple Street, Sullurpet Town and Mandal, SPSR Nellore District'. Merely because the petitioner/defendant happens to be none other than the founder family trust member of the subject temple, it cannot be presumed that the suit has been preferred against the temple. In that view of the matter, the question of considering Sections 150 and 151 of the Act does not arise. Considering the fact that the suit is not filed against the subject temple, the same is not in

any way bind on the temple. The judgment and decree that can be passed would not bind on the temple. The other contention of the petitioner that the land in which the first respondent is trying to make construction belongs to subject temple also need not be gone into as it is not the subject matter of the suit. It is admitted fact that the suit is at the stage of trail. The conditions pre requisite for rejecting the plaint under Order VII Rule 11 CPC do not arise for consideration in the case on hand.

For the foregoing reasons, the order under revision of the Court below does not call for interference in the present Civil Revision Petition.

The Civil Revision Petition fails and is accordingly dismissed at the admission stage. Miscellaneous petitions pending consideration if any in the Civil Revision Petition shall stand closed in consequence. No order as to costs.

JUSTICE CHALLA KODANDA RAM

DATED 19TH AUGUST, 2016.

Msnr_x