

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. Nos.5264, 5269, 5408 and 5536 OF 2015

COMMON ORDER:

This Court on 04.08.2016, heard the arguments of the learned counsel for the revision petitioner and as there was no representation on behalf of respondents 1 to 3 & 8 to 10, the matter was directed to be posted on 08.08.2016 under the caption 'For Orders' to submit any arguments of respondents. However, there was no representation for them even on 09.08.2016. Respondents 4 to 7 endorsed as not necessary parties in the main revision. Hence, the matter is posted today under the caption 'For Judgment' and for no representation on their behalf, they were treated as heard. Perused the material on record.

2) These are the four revision petitions, maintained by the petitioner's association, arising out of orders passed in I.A. Nos.2147, 2146, 2148 and 2149 of 2014 respectively in O.P. No.1336 of 2014 filed under Andhra Pradesh Societies Registration Act on the file of Principal District Judge, Visakhapatnam to implead the proposed parties as co-respondents and permit consequential amendment in the main petition and injunction applications in I.A. No.1945 of 2014, which were ended in dismissal by individual orders dated 22.09.2015.

3) The factual matrix in seeking impleadment of the proposed parties as respondents 8 to 10 in addition to respondents 1 to 7 in O.P No.1336 of 2014, are that the petitioner's association represented by its Secretary, when validly holding the office in that position along with other office bearers of the executive committee/

executive body, from the proposal by the respondents 1 to 3 to conduct elections again on 09.11.2014, even though the petitioner's society represented by Secretary and other office bearers are duly elected on 14.09.2014 for a period of one year, before expiry of that statutory period and for no other valid reason and seeking the reliefs to enquire into the dispute inter se between the petitioner's society, represented by office bearers duly elected on 14.09.2014 for one year period, and the respondents 1 to 3 who purported to hold a fresh election on 09.11.2014, and to declare the petitioner's association represented by the Secretary and other bearers of the executive committee were duly elected for one year period on 14.09.2014 and to grant consequential injunction restraining the respondents 1 to 3 from holding the proposed election on 09.11.2014 or any other date or to operate the account of the association lying in the banks, further to direct the respondents 1 and 2 to handover the keys of the community hall of the association to the existing office bearers of duly elected on 14.09.2014 including machinery equipment, minutes book and other available record and direct respondents 5 to 7 to permit the present executive body elected on 14.09.2014 to operate the bank accounts and such other reliefs.

4) It is despite the injunction application filed in I.A. No.1947 of 2014, the respondents 1 to 3 having appeared through caveator taken time but without filing counter and without getting ready for the injunction application, taking advantage of the application posted for counter and hearing, in the meantime allegedly conducted the purported election on 09.11.2014 saying as if respondents 8 to 10 are duly elected as President, Secretary

and treasurer of the association under that purported election and thereby they are to be impleaded as respondents 8 to 10 in the main petition vis-à-vis in the injunction application supra with consequential amendment.

5) These applications were resisted by the proposed parties vis-à-vis respondents Nos.1 to 3 saying the election allegedly duly performed and the petitioner's association represented by its Secretary and other bearers allegedly duly elected on 14.09.2014 is not a valid one and the election held on 09.11.2014 is duly conducted and thereby, the proposed parties unable to be impleaded even though they are the President, Secretary and treasurer newly elected on 09.11.2014, so also the consequential amendment since does not arise there from.

6) The learned District Judge (trial Court) from the respective contentions having formulated at Para No.5, the point for consideration covered by impugned orders respectively observed in para Nos.6 to 8 that as per Section 23 of the A.P. Societies Registration Act, 2001 (for short 'the Act') in the event of any dispute arising among the committee or the members of the society, in respect of any matter relating to the affairs of the society, any member of the society may proceed with the dispute under the provisions of the Arbitration and Conciliation Act, 1996 (Central Act 26 of 1996) or may file an application in the District Court concerned and the said Court shall after necessary inquiry pass such order as it may deem fit. The section is very clear to that effect that any dispute arising among the committee or the members of the society, in respect of any matter relating to the affairs of the society, any member of the society may file an

application in District Court. It is nowhere mentioned in the record about the status of the proposed respondents 8 to 10 prior to the filing of this application and petition and counter in the main petition as well as in the application for proposed amendment and to bring on record the proposed parties, shown they are not members of the executive committee in the petitioner's executive body or in the respondents' executive body as on the date of filing the petition. The proposed parties since not members of the petitioner's association, the relief sought to implead the respondents 8 to 10 cannot be considered and dismissed the same.

7) In fact, it is the core of the contention including in the main petition that the respondents 1 to 3 purporting to hold the illegal election on 09.11.2014 despite the petitioner's association represented by its Secretary and other office bearers of the executive committee were duly elected on 14.09.2014 for one year tenure and even temporary injunction application is filed, it is the contest of taking advantage of vacate petition, without filing counter or getting ready for inquiry, in the meantime pending the application purportedly conducted the alleged election on 09.11.2014 and the same is illegal and the purportedly elected president, Secretary and treasurer, who are the proposed respondents 8 to 10 are to be declared as not duly elected and they cannot continue besides the consequential reliefs, the lower Court should have considered that for the effective adjudication of the lis, the proposed parties are not only proper parties but also necessary parties as the relief sought is to restrain from conducting the purported election on 09.11.2014 and despite filing the application and seeking interim injunction relief, it has purportedly conducted

the election on 09.11.2014 and respondents 8 to 10 are allegedly and duly elected. The lower Court should not have been ignored this vital aspect in mechanically dismissing the petition.

8) Having regard to the above, the four orders under the revision are set-aside and the revision applications are allowed by impleading the respondents 8 to 10 of the four petitions as respondents 8 to 10 in the main O.P vis-à-vis in I.A. No.1945 of 2014 by permitting the consequential amendment therefrom in the main O.P. and in I.A. No.1945 of 2014.

9) Accordingly, the revision petitions are allowed. No order as to costs.

10) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.

Dt.10.08.2016
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Dr.JUSTICE B. SIVA SANKARA RAO