

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.5207 of 2017

Date: 13.10.2017

Between:

M/s.People Combine Amenities (P) Ltd.,
And People Combined Avenue Ltd.,
Rep. by its Chairman Sri T.Naga Prasad and another

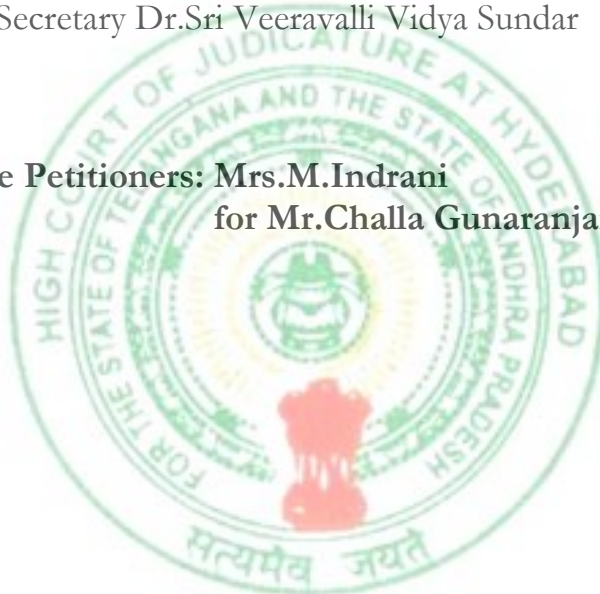
..... Petitioners

and

The Berith Christian Educational Society
regd. Under Societies Registration Act 35 of 2001
vide No.354/2010
duly rep. by its Secretary Dr.Sri Veeravalli Vidya Sundar
and 2 others

.....Respondents

**Counsel for the Petitioners: Mrs.M.Indrani
for Mr.Challa Gunaranjan**



The Court made the following:

Order:

This Civil Revision Petition is filed against Common order, dated 30-09-2016, to the extent it pertains to IA.No.584 of 2016 in OS.No.3 of 2016 on the file of the I Additional Senior Civil Judge, Visakhapatnam (for short 'the Court below').

By the aforesaid order, the Court below has granted temporary mandatory injunction directing the petitioners/defendant Nos.1 and 2 to remove the constructions made abutting the 60 feet road at road No.7, as mentioned in the sketch annexed to the plaint and marked as ABCD, for ingress and egress to respondent No.1/plaintiff to reach his property situated towards northern side of the said property.

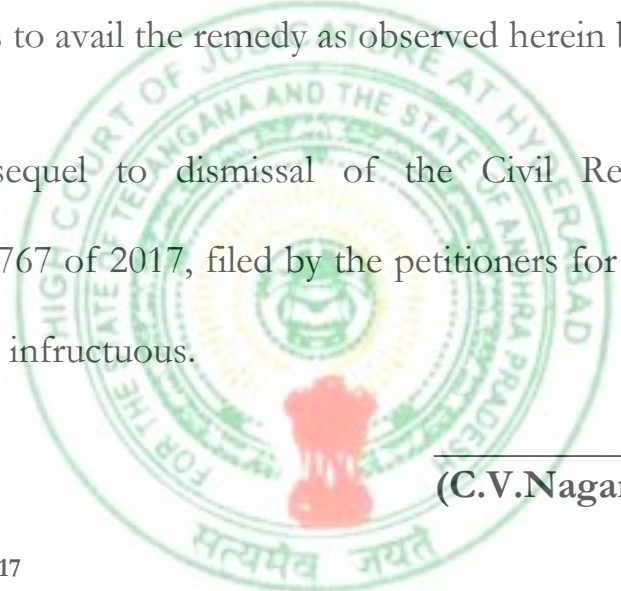
The Court below has mentioned in Para 4 of the impugned order that notices were served on the petitioners; that on 27-09-2016, when the cases were posted for filing counter-affidavit, the petitioners were called absent and that there was no representation on their side. Accordingly, the lower Court has forfeited the right of the petitioners to file counter-affidavit.

The learned Counsel for the petitioners argued that due to the fact that the arguing Counsel had been to Kolkata, he could not represent and that however, the petitioners were personally present in the Court, which was not taken note of by the Court below.

In my opinion, the questions whether the petitioners were personally present in the Court and whether there were justifiable reasons for them for not filing counter-affidavit cannot be adjudicated in this Civil Revision Petition. As the order under revision is an *ex parte* order, the petitioners are entitled to move an application for setting aside the same by pleading proper reasons.

In this view of the matter, the Civil Revision Petition is dismissed without adjudicating the same on merits and with liberty to the petitioners to avail the remedy as observed herein before.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.6767 of 2017, filed by the petitioners for interim relief, is disposed of as infructuous.



(C.V.Nagarjuna Reddy, J)

Dt: 13th October, 2017
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