

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REIVISION PETITION No.2692 OF 2016

The revision petitioner is the plaintiff in O.S.No.412 of 2015 on the file of the I Addl.Junior Civil Judge, Tenali. The suit filed is for the relief of permanent injunction restraining the defendants 1 to 9 and the persons claiming through them from interfering with the administration/ functioning/ possession of the suit schedule property in any manner and for such other reliefs. The plaint filed was in November, 2015. The plaint schedule property is described as admeasuring 337.5sq.yards and 0.07cents in S.Nos.654/ 17 and 687/ 5 situated in Tenali within the Municipal limits Ward No.11, Block No.7, Door No.5-21-12 at Peddisompet, Ithanagar, Tenali, Guntur district, AP named as Berachah Prayer House bounded by East-West: Municipal road(Nehru Road) of 41/ 40feet, South: site of Vallem Samadhanam of 75ft. North: Tumati Basavamma of 75ft.

2. Along with plaint there are 20 documents enclosed (viz; original encumbrance statement dated 27.11.2014 issued by the District Registrar, Tenali, certified copy of sale deed No.68/ 65 dated 07.01.1965, certified copy of registration of Society with memorandum bearing No.SOC/ 187/ 71 dated 17.02.1971, original electricity bills from July to October, 2015 of plaint schedule prayer house, certified copy of authorization letter given by the plaintiff society to R.Veera Chary, dated 12.11.2013, certified copy of registration certificate of society with No.114/ 1971,

dated 22.02.1971, true copy of income tax exemption dated 26.08.1985, certified copy of letter No.SOC 2/ 211/ 08, dated 19.02.2008 issued by the Registrar of Societies to G.T.Benjamin, certified copy of letter in SOC 2/ 10869/ 08, dated 30.07.2008 issued by the Registrar of Societies to FCS Peter i.e. Trust rep.by its Chairman, certified copy of order in W.P.No.16430 of 2008 dated 24.06.2009, certified copy of order in W.A.M.P.No.2729 of 2009 in W.A.No.1289 of 2009, dated 09.11.2010, certified copy of order in W.A.V.M.P.No.1920 of 2011, dated 18.04.2012, certified copy of order / proceedings Nos.14677/ SOC/ 2013 dated 27/ 2014 of the District Registrar of Societies, certified copy of order in W.P.No.19191 of 2014, dated 10.07.2014, certified copy of the order in W.P.M.P.No.24050/ 2014 in W.P.M.P.No.19191 of 2014 dated 30.01.2015, certified copy of order in O.S.No.999 of 2014 in I.A.No.1321 of 2014 respectively, dated 22.01.2015, 15.09.2015 of CCC, Hyderabad, certified copy of the order in I.A.No.932 of 2015 in O.S.No.280/ 2015, dated 23.09.2015, original pending letter of M.Obed Jhon dated 25.05.2015 by Chairman of the Society, the certified copy of order in I.A.No.281/ 2015 in O.S.No.90/ 15 of the Senior Civil Judge, Jagityal and the certified copy of the order in I.A.No.39 of 2015 in O.S.No.3 of 2015 of learned Senior Civil Judge, Srcilla).

3. Along with the plaint, the plaintiff viz; the Society of Trustees of Indigenous Churches in India (for short, 'the STICI') represented by its authorized person A.P.R.Veerachary filed the

application in I.A.No.585 of 2015 for temporary injunction under Order 39 Rules 1 and 2 read with Section 151 of CPC, against the 9 respondents/defendants viz; R.1-the Indigenous Churches in India Trust, Doc.No.46 of 2004(for short, 'ICIIT'), Golkonda Cross roads, Musheerabad, Hyderabad, represented by its Trustee and Chairman brother FCS Peter, M.N.Peter, R.2-P.Dyvaprasad S/o Chinna Gangaiah, R.3-P.Emmanuel, S/o Nageswara Rao, R.4-D.Moshe S/o Purushotham, R.5 G.Rajababu, s/o Krupavanam, R.6-D.Adarsh S/o Moshe(R.4), R.7-Thella Carners S/o T. Larusbabu, R.8- D.Slashbabu s/o G.Bhaskar Rao and R.9-Ch.Manikya Rao s/o Nancharaiah, by showing the addresses of R.2 to R.9 of Ithanagar, Tenali of Guntur District.

4. The temporary injunction application with the supporting affidavit of so called authorized person of the STICI by name R.Veerachary S/o R.Narasaiah is with the affidavit averments in nutshell (almost by reproduction of plaint averments) that plaintiff is a registered society bearing No.114/ 1971 formed by one Br.Bakht Singh in the name and style of the STICI, with the object of preaching gospel truth of Lord Jesus Christ by establishing churches to help the believers in god and to fulfill religious activities. Because of the efforts of the founder supra, apart from other members, the STICI established several churches in the States of Andhra Pradesh and Telangana and also abroad. The Founder Bhakt Singh died on 17.08.2000. Taking advantage of the same, the 1st respondent, the ICIIT and

its so called Members tried to grab the Trust and its properties by falsely alleging that the STICI was dissolved and has no right over the plaint schedule property supra. The STICI appointed one Obed Jhon on 25.05.2015 as Pastor to conduct prayers to the church in plaint schedule. The respondents/defendants at best got opportunity to offer prayers in a church, with no other authority to interfere in its functioning, hatched a plan by some formed into the 1st respondent Trust i.e. ICIIT, planned to occupy the properties of the STICI and secured an order by influencing the Registrar of Societies on 12.07.2014 as if the STICI was dissolved and in saying the STICI is deemed to be dissolved with effect from 23.03.2004. Said order of the Registrar of Societies was based on the orders of the High Court in W.P.No.16430 of 2008, by ignoring the status-quo order passed in W.A.No.1289 of 2009 which appeal filed by the STICI, against the orders in W.P.No.16430 of 2008. The order of the Registrar of Societies supra dated 02.07.2014, was challenged by the STICI in W.P.No.19191 of 2014, wherein an interim order dated 10.07.2014 was passed of no further proceedings pursuant to the order of the Registrar dated 02.07.2014 shall be taken up pending further orders therein and the interim orders are extending from time to time. Thus as per the order in W.P.No.19191 of 2014, there is no force to the order of the Registrar of Societies dated 02.07.2014. The plaintiff Society-the STICI is therefore in existence. The respondents are trying to get the plaint schedule church premises and they in fact entered into

the church on 08.11.2015 at 11.00 A.M., slapped the Pastor and took away the offering box maintained in the church for worships and the devotees present there rescued the Pastor on which the respondents went away. They are waiting to repeat their high handed action without any right to interfere with, including into the affairs of the STICI, thereby seeking temporary injunction pending the suit for permanent injunction.

5. The respondents 1 and 2 filed counter affidavit besides separate counter affidavits of R.3 to R.5, R.7 and R.8 and also R.6 and R.9 respectively.

a). The respective counter averments in nutshell are that the suit and the present petition for injunction are not maintainable and the STICI was dissolved on 25.03.2004 itself as per law and also orders of the High Court declared the same and once the STICI is not in existence to represent much less with any authority by R.Veerachary and thus the suit won't lie. In the place of the STICI, the 1st respondent trust ICIT is functioning by administering more than 1300 churches including the church attached to Hebron church and thereby the suit for bare injunction without even seeking any declaratory relief won't lie. The general body of the STICI by its unanimous special resolution dated 23.03.2004, dissolved the same on 25.03.2004 and transferred all the assets and liabilities including the suit church to the 1st respondent trust ICIT.

b).The High Court in the judgment dated 24.06.2009 in W.P.No.16430 of 2008 declared that the STICI was dissolved in accordance with law on 25.03.2004. W.A.No.960 of 2009 filed against W.P.No. 16430 of 2008 was also dismissed on 06.07.2010. By that time of 06.07.2010, the judgment in W.P.No.16430 of 2008 dated 24.06.2009 became final. W.A.No.1289 of 2009 was also filed against the judgment dated 24.06.2009 in W.P.No.16430 of 2008. The other Division Bench of this High Court in W.A.No.1289 of 2009 directed to maintain status-quo existing as on 09.11.2010. The High Court Division Bench in W.A.No.1289 of 2009 not even stayed or suspended the operation of the judgment dated 24.06.2009 in W.P.No.16430 of 2008, but only directed to maintain status quo as on 09.11.2010. Thus as on 09.11.2010, the status of the STICI is not in existence by virtue of the resolution of the general body dated 23.03.2004 dissolving the society w.e.f. 25.03.2004 and R.1 trust-the ICIT since then has been administering the dissolved STICI and its assets and properties. Further in W.P.No.7639 of 2004 dated 16.03.2005, it was held that the STICI in any way not in existence having been dissolved in accordance with law. In similar situation in W.P.No.19870 of 2013 dated 12.07.2013, the High Court permitted the ICIT to manage the affairs of the prayer hall of the dissolved STICI which cannot initiate any legal proceedings. Thus nobody can claim that the STICI is in existence.

c). One K.Jaiaraj alleged to have been authorized one R.Veerachary on 12.11.2013 to file the present suit, the earlier

filed O.S.No.380 of 2010 on the file of the II Addl.Chief Judge, City Civil Court, Hyderabad to set aside the unanimous special resolution of the general body of the STICI dated 23.03.2004 wherein the STICI was dissolved on 25.03.2004 and also sought for injunction against the R.1 trust-the ICIT and by well considered judgment dated 04.12.2012 the injunction application was dismissed by declaring that the STICI was dissolved on 25.03.2004 by general body of the STICI and granting of injunction would amount to nullifying the dissolution. The present suit and the injunction application filed in November, 2015 after lapse of 12 years from the date of dissolution w.e.f. 25.03.2004 is also barred by limitation and the STICI was once dissolved, it cannot be revived. The plaintiff under the so called claim of the STICI as if in existence cannot maintain the suit and get relief from what cannot be done directly cannot be sought indirectly in the eye of law and for also no basis to claim existence of the STICI for the same was dissolved on 25.03.2004 and since then there is no functioning of the dissolved entity.

d). Though one B.Timothy and his group are parties to several judicial orders and proceedings to the STICI was dissolved and the administration and assets of it are vested in the trust ICIT-R.1, still falsely contending as if the STICI is in existence which is nothing but abuse of judicial process. The general body of the STICI which is supreme by its special resolution in the general body meeting dated 23.03.2004 when unanimously dissolved the STICI and transferred the assets and liabilities to

the R.1 trust-ICIIT herein which is similar to the aims and objects in all respects of the STICI and immediately intimated to the District Registrar, acknowledging by receipt No.13141 dated 02.04.2004 and when R.1 trust-ICIIT vests with the assets and properties and is lawfully administering and managing the affairs in its functioning which includes the suit church that was transferred virtually by special resolution of the STICI of the churches more than 1300 including the suit schedule church by appointing Pastors, in all respects of the STICI. The R.1 trust-ICIIT also purchased several properties in its name and income tax authorities also allotted TAN and PAN Numbers to the ICIIT in February 2005. The trust is regularly filing IT returns. Several Courts including the High Court held that the STICI was dissolved and its properties are vested in the ICIIT-R.1 and functioning and the trust-ICIIT-R.1 appointed B.Timothy as Pastor on 16.05.2005 who continued upto 25.06.2007 for the suit church and later one M.Vasantha Kumar was appointed as Mr.Timothy was transferred to Nalgonda and the trust-ICIIT-R.1 continued Vasanthakumar upto his transfer to Pulivendula and the trust-ICIIT-R.1 appointed the 2nd respondent herein as Pastor of the suit church who is continuing even date. Thus, there is no cause of action to the plaintiff-the STICI, a non-est society to file the suit rep. by any authorized person including B.Veerachary and the so called non-est society as if existing representing by any persons never in possession or management and it is the ICIIT-R.1 that is in

possession and management of the affairs of the churches where its Pastors paying electricity bills regularly.

e). It is also the contention that as per the Section 121 of the A.P.Co-operative Societies Act 1964, suit or legal proceedings relating to business of any society shall not be proceeded with, while the STICI was wound up and dissolved from which the Court has no jurisdiction to entertain the suit and there is no cause of action to the plaintiff entity as not in existence and B.Veerachary has also no authority to file the suit, the suit for bare injunction without declaratory relief is also otherwise not maintainable, apart from injunction without seeking relief of possession also not maintainable and the civil Court has also no jurisdiction and the suit is also bad for non-joinder of the parties and causes of action. The suit and the injunction application are thereby not maintainable and are otherwise liable to be dismissed in limini.

f). On behalf of the respondents before the trial court, 12 documents are relied upon viz; electricity demand notices, property demand notice, property tax receipt, telephone bills along with payment slips, gas delivery receipts, residence certificate dated 02.02.2014, letter addressed to P.Dyva Prasad, dated 01.08.2015, certified copy of caveat in O.P.No.96 of 2015, photos along with C.D, letter addressed by B.Thimothi dt.24.10.2006 and certified copy of trust deed, dated 02.03.2004.

6. From the respective pleadings and material supra, the learned Additional Junior Civil Judge (trial Court) having

formulated points for consideration by referring to the respective documents relied as Exs.P.1 to P.20 and R.1 to R.12, observed in the injunction petition that, special resolution of the STICI dated 23.03.2004, was no doubt unanimously passed dissolving the STICI and the same was communicated to the Registrar of societies on 24.03.2004. However, the Ex.P.1 which shows dissolution and transfer of assets and properties of the STICI to the ICIT-R.1 is against the Act and the amendment to by-laws by diverting the STICI and its mortgaging with another society will come into force after approval by the Registrar. It is aggrieved by the Ex.P.9 said proceeding of Registrar of Societies, the ICIT filed W.P.No.16430 of 2008 that was allowed setting aside the Ex.P.9. Against the order in W.P.No.16430 of 2008, W.A.No.1289 of 2009 filed wherein status quo order was passed on 09.11.2010 and the ICIT filed Ex.P.12 seeking to vacate the status quo order supra and the same was not allowed on 18.04.2012 which is W.A.V.M.P.No.1920 of 2011 to say it is in the Writ Appeal still subjudice. The learned Junior Civil Judge observed therefrom of passing the status quo order on 09.11.2010 in W.A.No.1289 of 2009, the ICIT by projecting the orders in W.P.No.16430 of 2008 obtained orders from the Registrar of Societies under Ex.P.13 dated 02.07.2014 and when the STICI filed W.P.No.19191 of 2014, the High Court passed interim order dated 12.07.2014. The ICIT is claiming through the Ex.P.13 proceedings of Registrar, dated 02.12.2014 and against which the STICI filed W.P.No.19191 of 2014 and obtained interim order dated 10.07.2014 saying no

further proceedings in pursuance of the impugned order dated 02.07.2014 of the Registrar(Ex.P.13) shall be taken up pending further orders in that Writ Petition. Thereby and in view of the orders under Ex.P.14 giving no effect to Ex.P.13 accepted of the STICI is dissolved and mortgaging with ICIIT. It is observed that the order passed by the Addl. Chief Judge, City Civil Court, Hyderabad covered by the Ex.P.16 not attained finality of suit is pending. The order passed by the Senior Civil Judge, Jagityal in I.A.No.281 of 2015 in O.S.No.90 of 2015 is after full trial and Ex.P.20 order in I.A.No.39 of 2015 in O.S.No.3 of 2015 of Senior Civil Judge, Srcilla also in favour of the STICI to say the petitioner-the STICI could make out prima facie case. The document filed by the respondents covered by the Exs.R.1 to R.12 held of no help. The petitioner-the STICI thereby is entitled to the injunction restraining the respondents from interfering with administrative functioning and possession and enjoyment of the plaint schedule by the petitioner-society pending disposal of the suit by granting the injunction accordingly on 29.01.2016.

7.It is impugning the same when the respondents filed the C.M.A. No.2 of 2016 before the II Addl. District Judge, Tenali, the learned District Judge by the impugned judgment dated 01.06.2016 reversed the order of the learned Junior Civil Judge by vacating the injunction holding that the STICI is not in existence and is not entitled to injunction. The observations in the impugned CMA judgment of the learned District Judge, in answering the grounds of appeal by the respondents to the suit

and temporary injunction application of order of the Junior Civil Judge contrary to law weight of evidence and without reasons to the conclusion and failed to see that the petitioner entity is not in existence and there is no prima facie case or balance of convenience and thereby plaintiff is not entitled to injunction and the learned Junior Civil Judge went wrong in granting the injunction ignoring the core of contention of the defendants of the STICI is dissolved w.e.f. 25.03.2004 pursuant to the unanimous special resolution dated 23.03.2004 passed by the general body of the STICI and by transfer of its assets and properties in favour of the trust-ICIIT and the ICIIT is functioning therewith since before 25.03.2004, including in managing assets and properties of the affairs of the dissolved society-the STICI. It is observed that in I.A.No.602 of 2016 in the pending appeal, the defendants (appellants) filed as many as 19 documents including certified copies of the resolutions of the STICI dated 23.03.2004 unanimously passed by the Members of the STICI for which B.Timothy was also one of the signatories at S.No.23 and the certified copy of transfer letter dated 16.05.2005 addressed by Timothy supra from the ICIIT by transferring him from Khammam to Tenali as Pastor of the suit church and further covered by certified copy of the transfer orders dated 25.06.2007 by transferring him from Tenali to Nalgonda and another certified copy of circular resolution of ICIIT dated 23.09.2006, the certified copy of affidavit dated 25.09.2006 given by said Timothy and affidavit petition in I.A.No.677 of 2014 in

O.S.No.363 of 2014 on the file of the Additional Senior Civil Judge, Narsaraopet seeking injunction and the documents include copies of orders of the judgments of the High Court and other Courts including in Writ Petitions or miscellaneous petitions, all it establishes in favour of the defendants. The plaintiff in a suit for injunction has to make out prima facie case, balance of convenience and irreparable injury for entitlement of temporary injunction which are the pre-requisites under Order XXXIX CPC and the pleadings and the material on record indicate disputes started only for the first time in the year 2008 after lapse of considerable time from date of dissolution of the STICI on 25.03.2004 as per the special resolution dated 23.03.2004. Ex.P.1 to P.3 are not in dispute, which are memorandum of association of the STICI etc. The Ex.P.4 is the electricity bills issued in the name of Berachah Prayer House. The Ex.P.5 copy of letter dated 12.11.2013 of B.Timothy as Chairman of the STICI to B.Veerachary and basing on which the present suit and petition for injunction were filed. The Ex.P.6 certificate of registration of the STICI with its enclosure show general body Members functioning etc. Ex.P.7 letter dated 26.08.1985 addressed to the Commissioner of Income Tax about receipt of application form and IT return filed by B.Timothy in the name of the STICI only for the year 2014-15. Ex.P.8 letter dated 19.02.2008 addressed by the Registrar of Society informing registration No.114 of 71 of the STICI is in vogue but the Court cases are pending. Ex.P.9 letter dated 30.07.2008 addressed by the Registrar of the Societies in

response to information sought on behalf of the STICI for plaintiff to show it was not dissolved because of pending Court cases. Ex.P.10 certified copy of the order dated 24.06.2009 in W.P.No.16430 of 2008, holding the Society is dissolved and said letter in Ex.P.9 is unsustainable for the STICI was dissolved by the resolution dated 23.03.2004 and all its assets were liable to be transferred to the ICIT. The operative portion of the High Court in W.P.No.16430 of 2008 dated 24.06.2008 reads as

“On the aforesaid analysis, this Court finds no infirmity in the conduct of the 1st respondent addressing the impugned letter dated 19.02.2008 to the 2nd respondent but holds and declares that the information in the said letter that the society of Trustees of Indigenous Churches in India, Registered No.114 of 1971 ‘is in vogue’ is an information that is erroneous insofar as the 1st respondent (the STICI) is concerned, having regard to the special resolution passed by the said Society on 23.03.2004 and intimation of such Resolution furnished to the 1st respondent on 24.03.2004.

The writ petition is disposed of as above. No costs.”

8.The learned District Judge in the appeal impugned order further observed therefrom that in W.A.No.289 of 2009 in W.A.M.P.No.2729 of 2009 on 09.10.2010, order of status quo as on that day with regard to the impugned order (order dated 24.06.2009 in W.P.No.16430 of 2008) until further orders to maintain (Exs.P.11 and P.12) and the vacate petition of ICIT in that W.A.M.P.No.2729 of 2009 was disposed of by declining to vacate which was the order dated 18.04.2012. The Registrar of Societies under Ex.P.13 proceedings dated 02.07.2014 stated that based on the findings of the High Court in the order dated

24.06.2009 (referred above order in W.P.No.16430 of 2008) concluded as *“In view of the above, I hereby order that the resolution dated 23.03.2004 is deemed to have been taken into record and also deemed to have been dissolved from the date of passing of the resolution dated 27.03.2004. Necessary entries are made in the concerned records to that effect.”*

9. Ex.P.4 certified copy of order dated 10.07.2014 in W.P.No.19191 of 2014 of the High Court ordered as no further proceedings in pursuance of the impugned order dated 02.07.2014 shall be taken up pending further orders in the Writ Petition till next date of hearing and extended the same from time to time. Though said order of the Registrar under Ex.P.13 dated 02.07.2014 is kept in abeyance by the High Court in W.P.No.19191 of 2014 not to take any further proceedings pursuant to it(Ex.P.15), questions on legality or correctness of the dissolution of the STICI and formation of ICIIT once pending, lower Court observation of those are not binding is not correct. It is observed that Exs.R.1 to R.9 supra and Ex.R.10 photos showing the premises of the church during the prayer house functioning in the management of the ICIIT and Ex.R.11 dated 24.10.06 addressed by Timothy as Pastor of the schedule property to the ICIIT intimating inclusion of one of the members of the ICIIT on the ground that several members became old and due to advance age and said Timothy being party to the resolution for dissolution of the STICI dated 23.03.2004. Thereby it is established from the material contra and he cannot still

claim as Chairman of the STICI to represent the dissolved society or to authorize R.Veerachary for filing of the suit, which is thus not sustainable. The Registered trust deed dated 02.03.2004 of the ICIT shows its existence therefrom and after dissolution of the STICI w.e.f. 25.03.2004 by resolution dated 23.03.2004 the properties and assets are vested in the ICIT and when the so called plaintiff society-the STICI is not in existence prima facie; the suit to maintain there is neither prima facie case nor balance of convenience and several disputes are pending in several Courts in both the suits and orders passed in same proceedings in either favour and therefrom the plaintiff has no prima facie case to maintain the suit for bare injunction, that too when existence of the society since shown dissolved, when any serious dispute on its existence the question of prima facie case in existence does not arise. Suffice to say the plaintiff failed to prove prima facie case, one of the three requirements for grant of injunction and there is no any balance of convenience much less suffering of any irreparable loss by the non-exist plaintiff and it is not even a suit for declaration of right of their status in dispute to establish its existence and in these circumstances grant of injunction is not justified and lower Court did not consider the requirements in law of existence of prima facie case and balance of convenience etc. When there is a serious dispute on the very existence of the STICI, the findings of the Court below thereby granting injunction are unsustainable and liable to be set aside in allowing the miscellaneous appeal by set aside the order granting injunction

and dismissing the injunction application in I.A.No.585 of 2015 on 29.01.2016.

10. It is the same now impugned by the plaintiff-the STICI in the revision with the grounds that the impugned reversal order of the learned District Judge in setting aside the order of temporary injunction granted by the learned Junior Civil Judge is contrary to law and facts and evidence on record and without any reasons as to why it come to a different conclusion of how the plaintiff failed to make out prima facie case and in simply referring to the exhibits filed, without discussing and dealing with them in arriving any conclusion, which is though mandatory, that too for deferring with the view taken by the trial court in granting temporary injunction, as to how it was wronged, that the appellate Court by its referring to the exhibits, jumped to the conclusion in allowing the appeal by vacating the temporary injunction granted by the trial Court and the appellate Court's order is not a reasoned one and not properly exercised the jurisdiction vested in it, thereby same is liable to be set aside. Whereas, it is the submission of the learned counsel for respondents 1 and 2 in particular among others is in supporting the order of the lower appellate Court.

11. Heard both sides at length and perused the material on record.

12. The scope of revision is limited as per the settled expression of the Apex Court in *Shalini Shyam Shetty & Anr vs Rajendra Shankar Patil*¹ that:

“55. In paragraph 38, sub-paragraph (4) at page 695 of the report, the following principles have been laid down in *Surya Dev Rai* (supra) and they are set out:

38(4) Supervisory jurisdiction under Article 227 of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate Court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the Court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.

56. Sub-paras (5), (7) and (8) of para 38 are also on the same lines and extracted below:

"(5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied: (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.

(6) xxx xxx

(7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the above said two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred there against and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

(8) The High Court in exercise of certiorari or supervisory jurisdiction will not covert itself into a Court of Appeal and indulge in re-appreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character."

Said expression in *Shalini Shyam Shetty*(supra) while explaining *Surya Dev Rai*(supra) is quoted with approval by the three Judge

¹ (2010) 8 SCC 329

Bench in Radhey Shyam & Anr vs Chhabi Nath & Ors on 26 February, 2015.

From the scope of law, coming to decide the revision lies on the legality and correctness of the impugned reversal judgment of the lower appellate Court, from the material on record, the said Timothy as also discussed supra was one of the signatories of the special resolution unanimously passed on 23.03.2014 dissolving the STICI and also in taking the decision to transfer and vest all properties and the management of the dissolved entity in ICIT(D.1-trust) which was formed even prior to that on 02.03.2004 by giving effect to said special resolution unanimously passed. Once such is the case which is not in dispute at all and once the record clearly speaks said resolution unanimously passed on 23.03.2004 was communicated to the Registrar of Societies that is acknowledged by the Registrar of Societies on 24.03.2014, the only thing the Registrar of Societies was to do is to make an entry to that effect in the register. It is not the case from any record that the Registrar of Societies rejected the same of the dissolution of the STICI, much less vesting of the properties with similar objects in the entity-the ICIT(D.1-trust). At best thereby in its acceptance for no rejection, the only making of an entry in the register concerned that is even not made, that does not make any difference, also for the reason of the same resolution dissolving the STICI and vesting of the properties with similar objects in the entity-the ICIT(D.1-trust) not even challenged by any legal proceedings, much less by filing

any suit for declaration or by filing Writ Petition against said special resolution of the general body dated 23.03.2004 of the dissolution effected of the STICI, communicated to the Registrar of Societies that was acknowledged on 25.03.2004 is invalid and cannot be given any effect in any way even so far. Apart from it, said Timothy being a party and signatory to said special resolution cannot claim the society is not dissolved. Once he is not disputing the signature as a party to the resolution at S.No.22, he is estopped from contending contra. Consequently he cannot say the STICI is alive and not dissolved and are to authorize any person including said K.Veerachary in maintaining the said suit to represent the dead entity(since non-est).

13. It is one of the contentions of the defendants by referring to the expression of the Apex Court in 1986 5 SCC 731 that suit in the name of a dead person filed by another by impleaded himself as co-plaintiff is a fraudulent suit, so also in this line from the other judgment of the Apex Court in *Pragati Mahila Mandal Nanded Vs. Minicipal Council*² at para-12 of its well considered law that no matter can be allowed to be prosecuted for and on behalf of a dead person or against dead person but it is also no doubt true that a public interest litigation which generally raised an issue of general public importance, should not be allowed to be withdrawn or dismissed on technical ground, if cognizance thereof already has been taken by the Court, but important issue would still arise whether in case of

² 2011 3 SCC 464

death of sole plaintiff in a public interest litigation without bringing any others will it be allowed to be continued and prosecuted.

14. It is suffice to say from all the above that the lower appellate Court was absolutely right in its observation of the very plaintiff's society-the STICI existence is in grave doubt, for it is not in existence prima facie. In fact, the lower Court considered the material on the contentions that the lower Court did not consider the material in reversing the trial Court's order granting injunction is not correct from what is discussed supra.

15. Thus suffice to say, once the society is not in existence and when there is no prima facie case, there is no entitlement of injunction. Even for argument sake on said Timothy is not a party directly to the W.P.No.16430 of 2008, he cannot pretend that he has no knowledge about said resolution and its implementation and acting upon including the communication of Registrar of Societies. Not only that, undisputedly and even to his conscious knowledge being a deponent on oath on 25.09.2008 by a notarized affidavit filed by him with his name and address as deponent-B.Timothi in I.A.No.2400 of 2008 in O.S.No.268 of 2008 between some of the parties to the suit against the 1st defendant Trust-ICIT at Golkonda represented by its chairman brother Kuruvilla Phillip S/o V.K.Phillip and others. For that matter, said brother K.Phillip is even one of the signatories to said special general body resolution of the meeting dated 23.03.2004 at S.No.32, that what Timothy also stated on oath of he is one of

the signatories attended the meeting of general body dated 23.03.2004 for discussing the agenda of future of the society from dissolution of the society and the entire issue was thoroughly discussed and about 32 to 35 members present and all unanimously dissolved the society-the STICI and majority of the devotees from abroad are all in favour of the trust-the ICIT. Suffice to say further that said Timoti and K. Phillip being the parties to the unanimous resolution dissolving the STICI and vesting all properties and management of the churches in the 1st defendant-trust ICIT, they cannot dispute the same. What the High Court in W.P.No.16430 of 2008 dated 24.06.2009 rightly held is, once there is undisputedly the unanimous special resolution of the general body passed dissolving the entity-the STICI and vesting of all its properties and management including of the churches in the 1st defendant-trust ICIT and communicated to the Registrar of the societies of said resolution dated 23.03.2004 on 24.03.2004, dissolving the society w.e.f. 25.03.2004, at best it is only making of an entry by the Registrar of Societies and of making of entry no way cause life to the dissolved society-the STICI and what is stated contrary to it in the letter or proceeding of the Registrar of the Societies under Ex.P.9 is unsustainable. Against which, W.A.No.960/ 2009 was undisputedly maintained unsuccessfully and after its dismissal on 06.07.2010, the second W.A.No.1289 of 2009 was filed which is still pending and the status quo order to maintain the status quo as on that day dated 09.11.2010 was only granted. It is to say the

order in the W.P.No.16430 of 2008 was challenged earlier by W.A.No.960 of 2009 by withdrawal and went against on 06.07.2010 in confirming and giving more sanctity to the order in W.P.No.16430 of 2008 dated 24.06.2009 and it is that status quo is in force practically even later and as on 09.11.2010, when in the W.A.No.1289 of 2009 miscellaneous application filed and status quo as on that date to maintain is ordered. Even vacate petition against that status quo order was not inclined to entertain but for to decide the lis in W.A.No.1289 of 2009, that does not mean vacate petition contentions are with no merits. But for to decide the lis and what the status quo order is the status quo as on 09.11.2010 to maintain and that is admittedly not even suspension of the judgment in W.P.No.16430 of 2008, mere pendency of the appeal in the absence of suspension of operation of the order in Writ Petition for all practical purposes even Timothy was not a party directly, his affidavits discussed supra are binding on him admitting the factum of the dissolution of the STICI from the special resolution of the general body to which he is a party and communicated to the Registrar of Societies. Leave it as it is, the Writ Petition order otherwise is binding even of formal non-making of entry of the factum of dissolution by the Registrar of Societies in the concerned register for once it is not rejected, for all purposes deemed accepted not only the dissolution pursuant to the special general body meeting dated 23.03.2004 communicated on 24.03.2004 giving effect from 25.03.2004 but also the dissolved society-the STICI's assets

and management of properties vested in ICIT. That is also reinforced in the affidavit of Timothy as discussed supra. Once he is a party and got knowledge and not challenged, the existence of plaintiff's society is very bleak and pendency of Writ Appeal does not create its existence, that too when the order in W.P.No.16430 of 2008 not suspended, that too further even the dissolution of the STIC and vesting of the properties and the managements in the ICIT not challenged by filing any suit for declaration or otherwise; suffice to say as rightly concluded by the lower appellate Court of the learned Junior Civil Judge in granting the temporary injunction did not advert to the material facts and went wrong in its conclusion.

16. These facts when borne by the record including from the proceedings of the High Court which are the Court of record within the meaning of the Article 215 of the Constitution of India, on perusal of the several orders even show in line with exhibiting the STIC is dissolved and the property, assets and management all vested in the trust-ICIT from the majority of the expressions at least so also of the litigation in other common law Courts, leave about lack of jurisdiction. Suffice to say from the facts on record of the dispute as to the society if at all in existence to approach the tribunal under the Registration of Societies Act if any which is also not necessary for the purpose of revision to decide but for left open if at all in the suit to decide. This Court even to consider, from what the additional evidence application even filed before the lower appellate Court as

covered by the order, even not taken the same on file and exhibited and even not considered the same in this revision, suffice to say the revision petitioner has no prima facie case and no balance of convenience and suffer no any irreparable loss, which are the pre-requisites that are lacking for any entitlement of the grant of injunction as held in detail on the requirement for grant of injunction in C.R.P.No.76 of 2014 dated 21.10.2014 Dasari Laxmi Vs. Bejjenki Sathi Reddy, that were since missed consideration by the learned Junior Civil Judge in granting the temporary injunction and thereby rightly the lower appellate Court reversed the same by setting aside the order granting injunction by dismissing the application for temporary injunction, in this regard for this Court while sitting in revision against the reversal order of the lower appellate Court, there is nothing to interfere.

17. Accordingly and in the result, the revision is dismissed by upholding the order dated 01.06.2016 of the lower appellate Court in C.M.A.No.2 of 2016 wherein the lower appellate Court set aside the order dated 29.01.2016 passed in I.A.No.585 of 2015 by the learned I Additional Junior Civil Judge, Tenali, and also dismissed the I.A.No.585 of 2015. There is no order as to costs. Miscellaneous petitions, if any pending, shall stand closed.

Date:20.02.2017
b/ o. Vvr

Dr. B. SIVA SANKARA RAO, J