

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.4336 of 2016

ORDER :

Vide the present petition, the petitioner has assailed the order dated 27th July 2016 passed in I.A.No.874 of 2016 in S.O.P.No.458 of 2016.

The aforesaid I.A. was filed under Order XXXIX Rules 1 and 2 of CPC to grant *ad interim* injunction in favour of the petitioner restraining the 2nd respondent/alleged President, to act as Synod President, East Guntur Synod. After considering the rival contentions of both parties, the Court below opined as under :

“This court has come to a conclusion that as the orders of null and void of 78th East Guntur Synod convention was restored by this court the petitioner has not right to question at this juncture the 79th East Guntur Synod convention which was held on 13-4-2016, as even though prima facie case is made out for the grant of the interim injunction orders, but then the mere circumstance that the petitioner have prima facie case does not necessarily mean that the order of temporary injunction must follow. The court has also to consider the question of irreparable or serious injury and the balance of convenience. Even though prima facie case is sine quo non the petitioner must satisfy at lease two conditions. As the petitioner failed to show either the prima facie case or balance of convenience and irreparable injury the petitioner is not entitled to get the relief in the present application. Moreover the election results should not be thrown away lightly by the court unless thorough enquiry is made out regarding the said election. Therefore, this court is not in a position to restrain the 2nd respondent i.e. Kanaparthi Aseervadam to act as synod president of the 1st respondent

church threshold. Finally this court is concluding until the election is set aside by the election tribunal the 2nd respondent namely Kanaparthi Aseervadam, who is admittedly elected candidate cannot be restrained by way of interim order to discharge his functions of the elected office. As such the interim orders passed by this court on 28-4-2016 is hereby vacated and consequently this petition is liable to be dismissed. As majority of the documents filed by both the parties are xerox copies, this Court not exhibited at this moment. The orders, observations made in this petition are not binding while disposing main OP on merits.”

It is settled law that once election process is started, that cannot be stopped in between, whereas in the present case, the election was held and the executive body is elected and respondent No.1 is elected as Synod President. To quash the election, the petitioner herein has filed S.O.P.No.458 of 2016, which is pending for adjudication. Therefore, I am of the considered opinion that by filing such a petition, an elected President of any of the institution cannot be directed not to act as President until and unless the situation warrant so.

Keeping in view the averments made in the present petition and the submission of counsel for petitioner, I am of the considered opinion that the said situation is not in the present case.

Therefore, finding no discrepancy, illegality or perversity in the order passed by the Court below, the present petition is dismissed.

Before parting with the present petition, since the petitioner has challenged the very election of the Synod President of East Guntur Synod,

Christ Centenary Lutheran Church, Old Ponnur, Guntur District, therefore, the Court below is directed to dispose of the said petition within six months from the receipt of this order. No costs.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

20th January 2017

ajr

