

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

MONDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

CMA NO: 748 OF 2018

Appeal under Order 43 Rule 1 of CPC against the Order and Decree dated 29-06-2018, passed in I.A.No.1029 of 2018 in O.S.No. 379 of 2018, on the file of the Court of the III Additional Chief Judge City Civil Court At Hyderabad

Between:

1. M Prabhu, S/o. Basavanappa Madnuree, aged 73 years, Occ Managing Trustee of Hindi Prachar Sabha, Hyderabad Trust, Having its office at Sri Ram Hindi Bhavan, LN Gupta Marg, Nampally Station Road,
2. Hindi Prachar Sabha, Hyderabad Trust, Rep. by its Managing Trustee, M. Prabhu, Sri Ram Hindi Bhavan, LN Gupta Marg, Nampally Station Road, Hyderabad,
3. M. Prabhu, S/o. Basavanappa Madnuree, aged 73 years, Occ General Secretary of Hindi Prachar Sabha, Hyderabad, Having its office at Sri Ram Hindi Bhavan, LN Gupta Marg, Nampally Station Road, Hyderabad,
4. Hindi Prachar Sabha, Hyderabad, Rep. by its General Secretary, M.Prabhu, Sri Ram Hindi Bhavan, LN Gupta Marg, Nampally Station Road, Hyderabad.

...PETITIONERS/PLAINTIFFS

AND

Sri Suresh Puri, S/o. Bhagwan Puri Pareeksha Mantri (Examinations Secretary), aged about 66 years, Hindi Prachar Sabha, Sri Ram Hindi Bhavan, LN Gupta Marg, Nampally Station Road, Hyderabad.

...RESPONDENT/DEFENDANT

IA NO: 1 OF 2018

Petition under Order 39 Rule 1 & 2 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to restrain the Respondent, his persons and henchmen from interfering with the powers and duties of Petitioners 1 and 3 exercising with respect to Petitioners 2 and 4 i.e., Hindi Prachar Sabha, Hyderabad Trust and Hindi Prachar Sabha, Hyderabad

IA NO: 1 OF 2019

Between:

Prof. Suresh Puri, S/o. Bhagwan Puri, 68 years, Occ: Secretary (Examinations) Hindi Prachar Sabha, Hyderabad R/o. Plot No. 120 Gnt No. 132, Arunodaya Colony, Near Surya Lawns, Beed BY-PASS, Satara Parisar Aurangabad-431010

...PETITIONERS/RESPONDENT
IN CMA 748 OF 2018

AND

1. M Prabhu, S/o. Basavanappa Madnuree, aged 73 years, flat no. 204, Regent Annapurna Apartments Basheer Bagh, Hyderabad- 500063
2. Hindi Prachar Sabha, Hyderabad Trust, Rep. by its Managing Trustee, Sri Ram Hindi Bhavan, LN Gupta Marg, Nampally Station Road, Hyderabad,
3. M. Prabhu, S/o. Basavanappa Madnuree, aged 73 years, flat no. 204, Regent Annapurna Apartments Basheer Bagh, Hyderabad- 500063

- 4 Hindi Prachar Sabha, Hyderabad, Rep. by its General Secretary, Sri Ram Hindi Bhavan, LN Gupta Marg, Nampally Station Road, Hyderabad.

...RESPONDENTS/APPELLANTS
IN CMA 748/2018

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim injunction orders dt. 20-3-2019 granted in favour of the respondent/Appellant in IA No. 1 of 2018 in CMA No. 748 of 2018,

IA NO: 1 OF 2020

Petition under Order 41 Rule 27 R/w Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to receive the documents filed along with the petition as additional evidence to render substantial justice while considering the injunction petition in C.M.A.No.748 of 2018

Counsel for the Appellants: SRI SRINIVAS EMANI

Counsel for the Respondent: SRI J VENKATRAM NARSIMHA REDDY

The Court made the following: JUDGMENT

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Miscellaneous Appeal No.748 of 2018

JUDGMENT:

This appeal is filed by the appellants/plaintiffs, under Order XLIII Rule 1 of Code of Civil Procedure, 1908 (CPC), challenging the order, dated 29.06.2018, passed in I.A.No.1029 of 2018 in O.S.No.379 of 2018, by the learned III Additional Chief Judge, City Civil Court, at Hyderabad, whereby, the petition filed by the appellants/plaintiffs, under Order XXXIX Rule 1 and 2 read with Section 151 of CPC seeking to grant temporary injunction restraining the respondent/defendant, his persons and henchmen from interfering with the powers and duties of appellants 1 and 3 exercising with respect to appellants 2 and 4 i.e, Hindi Prachar Sabha, Hyderabad Trust and Hindi Prachar Sabha, Hyderabad, was dismissed.

2) The appellants herein are the plaintiffs and the respondent herein is the defendant in the subject suit. The parties in this appeal are referred to as they were arrayed in the subject suit.

3) Heard Sri Srinivas Emani, learned counsel for the appellants/plaintiffs, Sri J. Venkatram Narsimha Reddy, learned counsel for the respondent/defendant and perused the record.

4) Learned counsel for the appellants/plaintiffs would submit that Hindi Prachar Sabha, Hyderabad (plaintiff No.4) created the Hindi Prachar Sabha, Trust (plaintiff No.2) on 23.12.1965 at Hyderabad, for which, plaintiff No.1-Mr.M.Prabhu, is the lifetime Managing Trustee of the said Trust. The plaintiff No.3-Mr.

M.Prabhu, was also elected as General Secretary of Hindi Prachar Sabha, Hyderabad (plaintiff No.4), which constituted on 19.02.1961. It is contended that clause 9 of the Trust Deed dated 23.12.1965 and the Bye-laws of the Sabha dated 19.02.1961, states that any post under the Sabha is only through election and the defendant, who is only an Examination Secretary of the Hindi Prachar Sabha, should not have become himself as General Secretary. The Court below without considering the above aspects, erroneously dismissed the subject Interlocutory Application and ultimately prayed to set aside the impugned order dated 29.06.2018 by allowing the appeal as prayed for.

5) On the other hand, learned counsel for the respondent/defendant would contend that Mr.M.Prabhu, plaintiff No.1 submitted his resignation to the post of General Secretary in Hindi Prachar Sabha vide letter dated 06.02.2018 (Ex.R.1) and the Central Executive Committee in the meetings held on 06.02.2018 (Ex.R.2) and 11.05.2018 (Ex.R.7), accepted the resignation of Mr. M.Prabhu, and appointed the defendant-Mr. Suresh Puri, as General Secretary of the Hindi Prachar Sabha and Managing Trustee of the Hindi Prachar Sabha, Hyderabad Trust. The Court below is justified in dismissing the subject Interlocutory Application. There is no material illegality to interfere with the impugned order and ultimately prayed to sustain the same by dismissing the appeal.

6) In view of the submissions made by both sides, the point for determination in this appeal is:

"Whether the impugned order dated 29.06.2018 passed in I.A.No.1029 of 2018 in O.S.No.379 of 2018 by the learned III Additional Chief Judge, City Civil Court, Hyderabad, is sustainable?"

7) **POINT**: As seen from the material placed on record, the plaintiffs filed the subject suit seeking declaration and perpetual injunction for unauthorised letter issued by the defendant as null and void and contrary to Clause 9 of the Registered Trust Deed and to restrain the defendant from interfering with the powers and duties of the petitioners 1 and 3 exercising with respect to petitioner Nos.2 and 4. Pending the said suit, the plaintiffs filed the subject Interlocutory Application seeking temporary injunction against the defendant from interfering with the powers and duties of plaintiff Nos.1 and 3 exercising with respect to plaintiff Nos.2 and 4. In support of the case of plaintiffs, the plaintiffs relied upon the following documents. Ex.P.1 is the letter dated 19.02.2007, Ex.P.2 is the copy of document No.3206 of 1966 dated 23.12.1965, Ex.P.3 is the bye-laws constitution of Hindi Prachar Sabha, Hyderabad, dated 19.02.1961, Exs.P.4 to P.8 are the letters dated 25.04.2018, 01.05.2018, 14.05.2018, 22.05.2018 and 22.05.2018 respectively, Ex.P.9 is the letter with postal receipt dated 25.05.2018, Ex.P.10 is the order copy in C.C.No.811/2020 dated 19.03.2018 on the file of VII Addl. Chief Metropolitan Magistrate, Hyderabad, Ex.P.11 is the letter to tenants dated 22.05.2018 and Ex.P.12 is the letter dated 07.04.2018. On the other hand, defendant relied upon the

following documents. Ex.R.1 is the resignation letter of Mr.M.Prabhu dated 06.02.2018, Ex.R.2 is the minutes of the organising committee meeting dated 06.02.2018, Ex.R.3 is the letter issued by the defendant dated 01.05.2018 proposing meeting on 11.05.2018, Ex.R.4 is the sub-committee report, Ex.R.5 is the executive committee meeting work details dated 11.05.2018, Ex.R.6 is the letter about proposing meeting on 11.05.2018 about the Trust, Ex.R.7 is the minutes of the meeting dated 11.05.2018, Ex.R.8 is the letter dated 11.05.2018 regarding proposal of meeting on 12.05.2018 and Ex.R.9 is the executive meeting of Dharmavanth Hindi Training Institutions Trust, Ex.R.10 is the letter bearing No.380/2018 dated 30.05.2018, Ex.R.11 is the complaint letter addressed to the Deputy Commissioner of Police dated 07.06.2018 by the Hindi Prachar Sabha, Hyderabad and Ex.R.12 is the complaint letter addressed to SHO, Abids Station, dated 08.06.2018. The Court below after hearing both sides and perusing the documentary evidence adduced by both sides, dismissed the subject Interlocutory Application vide impugned order dated 29.06.2018.

8) The contention of the plaintiff No.1 is that he is a lifetime Managing Trustee of Hindi Prachar Sabha, Hyderabad Trust and also the General Secretary of the Hindi Prachar Sabha, Hyderabad but the defendant is interfering with his activities. Whereas the contention of the defendant is that as per the decision of Central Executive Committee Meetings dated 06.02.2018 & 11.05.2018, the defendant is Managing Trustee of the Hindi Prachar Sabha, Hyderabad Trust and the plaintiff No.1

is no more General Secretary of the Hindi Prachar Sabha nor the Managing Trustee of the Hindi Prachar Sabha, Hyderabad Trust and also the Dharmavant Hindi Sikshana Samsthan Trust. Thus, there is a serious dispute with regard to Mr.M.Prabhu, plaintiff Nos.1 & 3 managing the affairs of the Hindi Prachar Sabha, Hyderabad and the defendant is interfering with his functioning.

9) It is pertinent to state that there are documents to substantiate the resignation of Mr.M.Prabhu and the same are discussed below. Ex.R.1-letter dated 06.02.2018 reflects that Mr.M.Prabhu, had resigned from the post of General Secretary in Hindi Prachar Sabha, Hyderabad. Ex.R.2-minutes of the Central Executive Committee meeting dated 06.02.2018 reveals that the defendant is appointed as the General Secretary of the Hindi Prachar Sabha. Ex.R.7-minutes of the meeting of Trustees of the Hindi Prachar Sabha, Hyderabad Trust dated 11.05.2018 reveals that Mr.M.Prabhu, has been removed from the membership of Managing Committee of Hindi Prachar Sabha, Hyderabad and from the Trusteeship and Managing Trusteeship of Hindi Prachar Sabha, Hyderabad Trust and also Trustee, Managing Trustee and Correspondent of Dharmavant Educational Institutions. Thus the above documents substantiate the contentions advanced on behalf of defendant and establish that Mr.M.Prabhu is not managing the affairs of the Hindi Prachar Sabha, Hyderabad. There is no *prima facie* material to substantiate that Mr.M.Prabhu, is holding any post in the subject organisations. There is no cogent and convincing material to substantiate the contentions made on behalf of the plaintiffs. Consequently, there

is no *prima facie* case and balance of convenience in favour of the plaintiffs to grant the relief of temporary injunction under Order XXXIX Rules 1 and 2 CPC pending subject suit. The Court below is justified in dismissing the subject Interlocutory Application vide impugned order dated 29.06.2018. There is no illegality to vary the impugned order. The contentions raised by both sides are triable issues and they are required to be determined after full-fledged trial. The appeal is devoid of merits and is liable to be dismissed.

10) In the result, this Civil Miscellaneous Appeal is dismissed.
No costs.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

//TRUE COPY//

Sd/-M.SANTHI VARDHANI
JOINT REGISTRAR
SECTION OFFICER

To,

- 1 The III Additional Chief Judge City Civil Court At Hyderabad.
 - 2 One CC to Sri Srinivas Emani, Advocate [OPUC]
 - 3 One CC to Sri J Venkatram Narsimha Reddy, Advocate [OPUC]
 - 4 Two CD Copies
- JR



HIGH COURT

Dr,SA,J

DATED:08/06/2020



JUDGMENT

CMA.No.748 of 2018

DISMISSING THE CMA WITHOUT COSTS

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Dt 16/6/2020