

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

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE A.VENKATESHWARA REDDY

CIVIL REVISION PETITION NO: 264 OF 2016

Petition under Article 227 of the Constitution of India against the Orders dt.15.09.2014 in I.A.No.520/2014 in O.S.No.534/2014 on the file of the Court of the Principal Senior Civil Judges Court, Warangal

Between:

1. K.Srinu, S/o. Ilaiiah, Aged: 36 years, Occ: Oggu Pujari & Agriculture, Warangal Dist.
2. Kolanu Sudhakar, S/o. Cheralu, Aged : 32 years, Oggu Pujari & Agriculture.
3. Kolanu Komuraiah, S/o. Balakistaiah, Aged: 51 years, Oggu Pujari & Agriculture.
4. Kolanu Ravi., S/o. Buchi Kumaraiah, Aged: 31 years, Oggu Pujari & Agriculture.
5. Kolanu Parameshwar, S/o. Mallaiah, Aged: 46 years, Oggu Pujari & Agriculture.
6. Kolanu Komuraiah & Nadipi Komuraiah., S/o. Beeraiah, Aged : 61 years, Occ Oggu Pujari & Agriculture. All are R/o. Narayanagiri Village, Dharmasagar Mandai, Warangal District.

...PETITIONERS/PETITIONERS/DEFENDANTS

AND

Kolanu Raju, S/o. Komuraiah, Aged : 44 years, Occ : Oggu Pujari & Agriculture, R/o. Narayanagiri Village, Dharmasagar Mandal, Warangal District.

...RESPONDENTS/RESPONDENT/PLAINTIFF

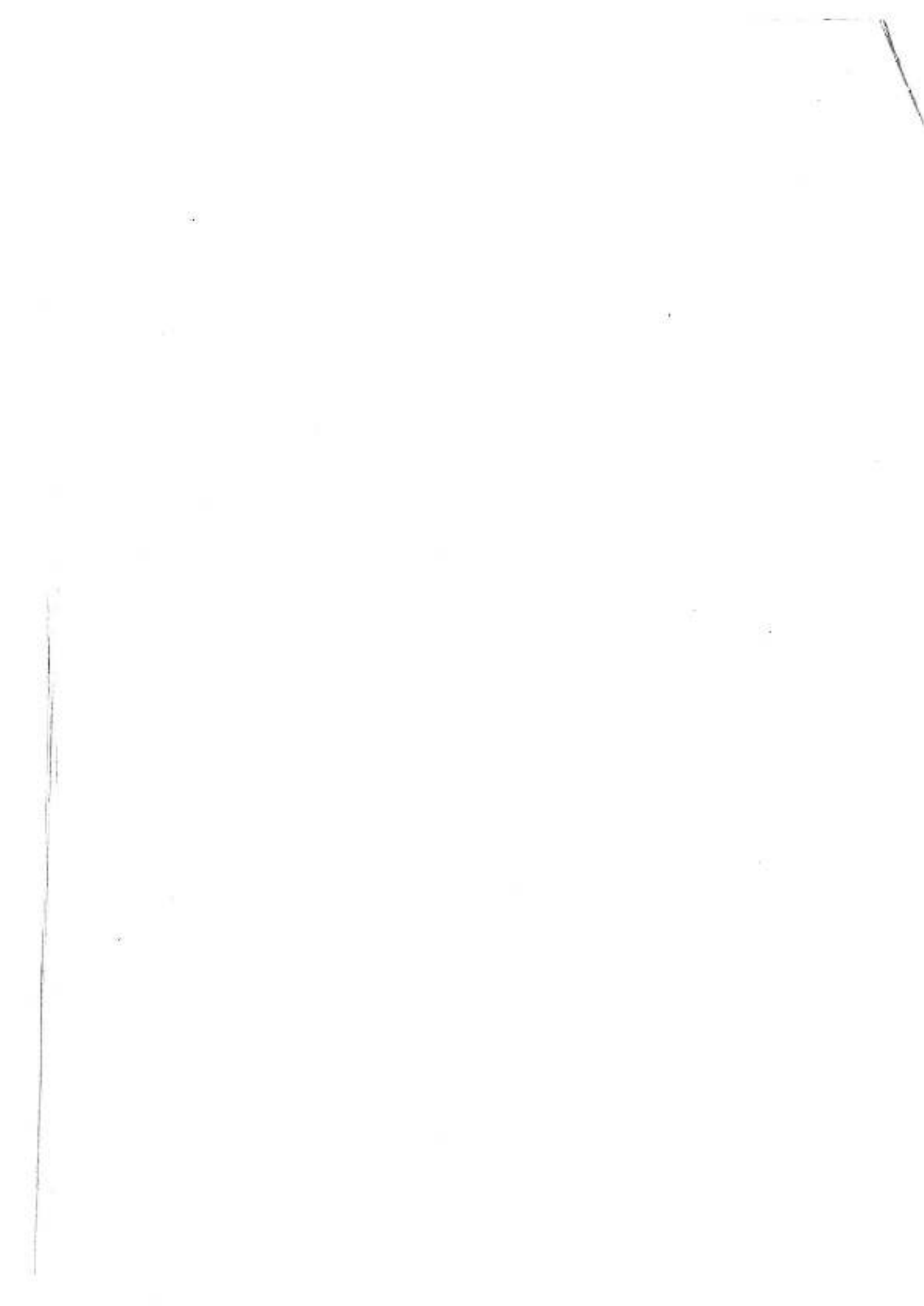
CRPMP. NO: 324 OF 2016

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 stay all further proceedings in O.S.No.534/2014 on the file of the court of Principal Senior Civil Judge, Warangal pending disposal of the above C.R.P.

Counsel for the Petitioners : SRI. W B SRINIVAS

Counsel for the Respondent : P MEHAR SRINIVASA RAO

The Court made the following : ORDER



THE HON'BLE SRI JUSTICE A.VENKATESHWARA REDDY

CIVIL REVISION PETITION No.264 OF 2016

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India by the petitioners/defendants assailing the order dated 15.09.2015 in I.A.No.520 of 2014 in O.S.No.534 of 2014 on the file of the Principal Senior Civil Judge at Warangal.

2. Application in I.A.No.520 of 2014 was filed under Order 7, Rule 11 read with Section 151 of Civil Procedure Code (for short 'CPC') to reject the plaint in its entirety as it is being barred by law and also not being a civil dispute to invoke the jurisdiction of Civil Court and further, there is no cause of action for the plaintiff to file the suit against the defendants. The trial Court has dismissed the said application. Aggrieved by the said findings recorded by the trial Court, the defendants have filed this CRP.

3. Heard both sides. The submissions made on both sides are received due consideration of this Court.

4. For the sake of convenience the parties are hereinafter referred to as plaintiff and defendants as they were arrayed in OS No.534 of 2014 before the trial Court.

5. The plaintiff has filed O.S.No.534 of 2014 for perpetual injunction against the defendants and their men from interfering with the peaceful day to day activities as Oggu Pujari in Gattu Mallikarjuna Swamy Devasthanam, Mallikudurla Village, Dharmasagar Mandal, Warangal District. The defendants 1 to 6 have filed their written statements in the suit and issues were settled and at that stage, the present application in I.A.No.520 of 2014 is filed by the defendants under Order 7, Rule 11 read with Section 151 of CPC to reject the plaint on the ground that the suit is barred by Section 151 of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') and the civil Court has no jurisdiction in respect of such matters. There is no cause of action for filing the present suit.

6. The trial Court has dismissed the said application with the following observations :

"The only point that would arise for
consideration in the above suit is whether the

plaintiff is prevented by the defendants from performing day to day activities as Oggu Pujari in Gattu Mallikarjuna Swamy Devasthanam, Mallikundurla Village, Dharmasagar Mandal, Warangal District and if he is prevented from performing the said activities whether the defendants can be prevented by way of injunction or not. The very nature of the suit is that the plaintiff sought for the relief for permanent injunction from interfering with performing pujas as Oggu Pujari in Gattu Mallikarjuna Swamy Devasthanam is as per the orders of the Executive Officer and the Deputy Commissioner of Endowments whether the appointment of Oggu Pujari is right or wrong can be decided before the relevant authority by the defendant. Further whether the acts of the defendant fall within the scope of the dispute triable by a Civil Court is also decided after taking ample evidence on behalf of both parties, at this stage it cannot be decided that the above suit is barred under Section 151 of Endowments Act and also Section 87 of Endowment Act. Hence this petition is not maintainable at this stage".

7. Thus, the trial Court has concluded that the plaintiff has only filed suit for perpetual injunction to prevent the

defendant from performing his day to day activities. The very nature of the suit is for the relief of perpetual injunction and in fact as per the orders of the Executive Officer and Deputy Commissioner, Endowments, the appointment of Oggu Pujari has to be decided.

8. Order VII, Rule 11 (a) to (e) of CPC are mandatory in nature, if any of the grounds specified therein are made out, the Court is bound to reject the plaint. To ascertain the same, the Court has to read the averments of the plaint in conjunction with the documents relied upon in plaint as a whole without addition or subtraction of any words. It is the substance and not the form, which has to be seen and so read if cause of action or any of the criteria as mentioned in Rule 11 (a) to (e) of Order VII of CPC is made out, the Court is not required to further enquire about the truthfulness of allegations. The plea taken by the defendants in the written statement is absolutely irrelevant at this stage. **(Dahiben Vs. Arvinbhai Kalyanji Bhanusali (Gajra) (D) through LRs and others ¹.**

¹ 2020 (7) SCC 366

9. On a copious reading of averments in the plaint, the Original suit is only filed for injunction simpliciter. The plaintiff has not claimed any declaration of his status as Oggu Pujari. He is merely asking for perpetual injunction to restrain the defendants from interfering with performing his duties as Oggu Pujari. In-fact, in para 4 of the plaint, it is clearly pleaded that the Endowments Department is conducting an enquiry and appoint the plaintiff as Oggu Pujari in Gattu Mallikarjuna Swamy Devasthanam, Mallikudurla Village, Dharmasagar Mandal, Warangal District along with other Pujaries, who succeeded the same from their respective villages and Executive Officer of the temple has issued proceedings in RC No.SMST/2014, dt.10.03.2014. Such a civil suit for perpetual injunction is covered under Section 9 of CPC.

10. The learned counsel for the defendants relied on the following decisions :

- (1) **Kanduri Veera Raghava Charyulu Vs.Nalluri Jagannadha Charyulu (Dead) per L.Rs. and others** ².
- (2) **Attada Gangu Naidu and another Vs. Deepala Chandra Mouli and others** ³.

² 2005 CJ (AP) 478

³ 2011 CJ (AP) 476

I have carefully perused the principles laid in the above decisions relied by the learned counsel for the defendants. In view of the authoritative pronouncements made by the Hon'ble Supreme Court about the criteria for consideration under Order VII, Rule 11 (a) to (e) of CPC and also in the facts and circumstances of the case, as the relief claimed is only for injunction simpliciter, in my considered opinion, the principles laid in the above decisions are not helpful to the defendants in any way.

11. The plaintiff is not claiming any declaration or inheritance etc., therefore, on a conjoint reading of the plaint averments and the documents filed along with the plaint without addition or subtraction of any words, *prima-facie*, the averments in the plaint discloses cause of action and the suit is not barred by any law as the relief claimed is only an injunction simpliciter and in that view of the matter, I do not find any jurisdictional error committed by the trial Court in dismissing the application filed by the defendants therein.

12. In the result, this CRP is dismissed confirming the order impugned dated 15.09.2015 in I.A.No.520 of 2014 in O.S.No.534 of 2014 on the file of the Principal Senior Civil Judge at Warangal. Further, considering the fact that the suit is filed in the year 2014, the trial Court shall expedite the disposal of O.S.No.534 of 2014 and shall make every endeavour to dispose of the same within nine months from the date of receipt of copy of this order.

In the circumstances of the case, the parties shall bear their respective costs. Miscellaneous petitions, if any, pending, in this CRP, shall stand closed.

//TRUE COPY//

SD/-T.KRISHNA KUMAR
ASSISTANT REGISTRAR
SECTION OFFICER

To

1. The Principal Senior Civil Judge at Warangal
2. One CC to SRI. W B SRINIVAS Advocate [OPUC]
3. One CC to SRI. P MEHAR SRINIVASA RAO Advocate [OPUC]
4. Two CD Copies
5. One Spare Copy

IKV
SB

HIGH COURT

DATED:27/04/2022



ORDER

CRP.No.264 of 2016

DISMISSING OF THE C.R.P

⑥ *VLV*
27/6/22