

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL MISCELLANEOUS APPEAL No.96 of 2015

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27.02.2015

Between:

The Indigenous Churches in India Trust, Hyderabad and others
...Appellants

And

Bro. K.M.Samson
...Respondent

Counsel for the Appellants: Sri S.Ramachandra Rao,
senior counsel for Sri K.R.Prabhakar

Counsel for respondent: Smt.P.Padmavathi,
for Sri N.Nanda Kishore

The Court made the following:

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JUDGMENT:

This civil miscellaneous appeal arises out of the order, dated 21.01.2015, in I.A.No.670 of 2014 in O.S.No.876 of 2014 on the file of learned XI Additional Chief Judge, City Civil Court, Hyderabad.

The appellants filed the aforementioned suit for declaring that the respondent is unfit to continue as a Trustee of the Indigenous Churches in India Trust, Hebron, Hyderabad (for short 'the Trust') and for a consequential perpetual injunction restraining him and the persons claiming through him from interfering with the affairs of the Trust. The Trust is shown as plaintiff No.1 represented by the Trustee Bro. F.C.S.Peter, who also figured as plaintiff No.2. Another Trustee, by name, Bro.U.Jai Prakash joined the said plaintiffs as plaintiff No.3. In the said suit, the plaintiffs have filed the aforementioned I.A. for granting *ad interim* injunction restraining the respondent from interfering with the affairs of the Trust. The main ground on which the reliefs in the suit as well as in the injunction application have been sought by the appellants - plaintiffs is that the respondent has been acting contrary to the interests of the Trust. The respondent filed a counter-affidavit denying the allegations that he had been acting detrimental to the interests of the Trust. The lower Court, by the order, which is under challenge in this appeal, dismissed the aforementioned I.A. by rendering a *prima facie* finding that the appellants have failed to establish the elements of balance of convenience and irreparable injury in their favour.

I have heard Sri S.Ramachandra Rao, learned senior counsel for the appellants and Smt.P.Padmavathi, learned counsel for the respondent.

Learned counsel for the respondent, submitted that under Clause 2 of the Supplementary Trust Deed, dated 09.03.2007, if any Trustee acts against the Trust or its objectives or is unfaithful to the vision of the Church or to the Doctrines of the word of God, he can be removed and a new Trustee can be appointed in his place by the majority of the Trustees. She has, therefore,

submitted that if his client has been acting against the Trust or its objectives or is unfaithful to the vision of the Church or to the Doctrines of the word of God, the appellants are entitled to invoke the power vested in them under the aforementioned Clause and that the suit itself is not maintainable.

Inasmuch as the suit is pending before the lower Court, I refrain from rendering any finding on merits. The question whether the respondent has been acting against the interests of the Trust or its objectives, needs to be decided in the suit. However, Clause No.2 of the Supplementary Trust Deed, dated 09.03.2007, reads as under:

“And whereas it was resolved in the meeting held on 08.03.2007 that a single Amendment to clause 4(8) of the trust deed, adding the following to the said Principal Deed, “If any trust acts against the trust or its objectives or is unfaithful to the vision of the church or unfaithful to the doctrines of the word of God, he can be removed and a new trustee can be appointed in his place by the majority of the trustees.”

In my opinion, if pending the suit, the appellants feel that the respondent is acting against the interests of the Trust or its objectives, they are not helpless. With a majority among the Trustees, they can remove the respondent from the office of Trusteeship.

The Civil Miscellaneous Appeal is accordingly disposed of without interfering with the order of the lower Court with liberty to the appellants to invoke Clause 2 of the Supplementary Trust Deed, dated 09.03.2007.

As a sequel to disposal of the Civil Miscellaneous Appeal, C.M.A.M.P.No.176 of 2015 filed by the appellants for interim relief stands disposed of as infructuous.

(C.V.NAGARJUNA REDDY, J)

27th February, 2015

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