
(2010) 08 MAD CK 0442

In the Madras High Court

Case No : C.R.P. (PD) No's. 2203 to 2205 of 2010 and M.P. No's. 1+1+1 of 2010

Indian Evangelical Lutheran Church and Others

APPELLANT

Vs

J. Rajesh, T.K. Christopher Stalin and Daniel

RESPONDENT

Date of Decision : 19-08-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2, Order 39 Rule 3, Order 39 Rule 4, Order 43 Rule 1
Constitution of India, 1950 — Article 226, 227

Citation : (2010) 5 CTC 762

Hon'ble Judges : K. Mohan Ram, J

Bench : Single Bench

Advocate : T.V. Ramanujam, for T.V. Krishnamachari, for the Appellant; S. Prabakaran, for M. Antony Selvaraj, Advocate for Respondent Nos. 1 and 2., for the Respondent

Final Decision : Allowed

Judgement

K. Mohan Ram, J.—Aggrieved by the orders, dated 30.6.2010 passed in I.A. No. 11486, 11487 and 11488 of 2010 in O.S. No. 5975 of 2010 by the III Additional Judge, City Civil Court, Chennai, the Petitioners have filed the above C.R.Ps. When the above C.R.Ps. came up for admission, the learned Counsel for the Petitioners sought for permission to withdraw the C.R.P. No. 2204 of 2010 and to that effect an endorsement has also been made.

2. In view of the said submission made by the learned Counsel for the Petitioners and in the light of the endorsement made by him, the C.R.P. No. 2204 of 2010 is dismissed as withdrawn.

3. As far as the C.R.P. Nos. 2203 and 2205 of 2010 are concerned, the Petitioners in the above C.R.Ps. are the Defendants 1, 2, 3, 5 and 6 in O.S. Nos. 5975 of 2010 on the file of the III Additional Judge, City Civil Court, Chennai. The Respondents 1 and 2 herein have filed the said Suit for the following reliefs:

- a. For a declaration, declaring that the 2nd Defendant is ineligible and incompetent to hold the post of President of IELC for violating the constitution and bye-laws of the IELC;
 - b. For a permanent injunction restraining the Second Defendant from functioning and discharging his duties as a President of IELC in any manner;
 - c. For a declaration declaring that the Defendants 3 to 5 have rendered themselves ineligible to hold the post of Church-Council members of IELC.
 - d. For a permanent injunction restraining the Defendants 3 to 5 from functioning as Church Council members of IELC in any manner.
 - e. For a declaration declaring that the appointment of the 6th Defendant is null and void as his appointment is contrary to the Constitution and Bye-laws of the IELC.
 - f. For a permanent injunction restraining the 6th Defendant from functioning as Business Administrator of the Bethasda Hospital, Ambur, and
 - g. Direct the 2nd Defendant to pay a sum of Rs. 5,00,000/- to the 1st Defendant.
4. Pending the Suit, the Respondents 1 and 2 herein filed I.A. Nos. 11486 and 11488 of 2010 praying for Interim Injunction restraining the 6th Defendant from functioning as Business Administrator of the Bethasda Hospital, Ambur pending disposal of the above said Suit and for Interim Injunction restraining the Second Respondent from functioning and discharging his duties as a President of IELC in any manner pending disposal of the Suit respectively.
5. The Court below passed the following order in I.A. No. 11486 of 2010:
6. In I.A. No. 11488 of 2010, the following order came to be passed:
7. Being aggrieved by the aforesaid ex parte order of injunction granted by the Court below, the Respondents 1, 2, 3, 5 and 6 have filed the above C.R.Ps. The Third Respondent in the above Revision Petitions is the 4th Defendant in the Suit.
8. Heard both.
9. Though the learned Senior Counsel for the Petitioners and the Respondents made extensive submissions touching upon the merits of the case and also regarding the legality of the order passed by the Court below, this Court is not going into the merits of the rival contentions. The Civil Revision Petitions could be disposed of on a short ground.
10. T.V. Ramanujam, learned Senior Counsel appearing for the Petitioners submitted that the Court below failed to see that the Plaintiffs have not come to the Court with clean hands and suppressed material facts particularly the pendency of the Suits on the file of the Original Side of the High Court of Madras. The learned Senior Counsel submitted that the Court below failed to see that the issue raised in the present Suit in O.S. No. 5975 of 2010 was the issue in C.S.

No. 811 of 2007 and the Suit was filed by D. Manuel Doss and others u/s 92, C.P.C. In the said Suit C.S. No. 811 of 2007, the Plaintiffs were not successful in getting interim orders. In the Application No. 6695 of 2008 filed for seeking leave u/s 92, C.P.C. only notice has been ordered.

11. The learned Senior Counsel further submitted that since the Plaintiffs were not successful in getting interim orders in the earlier Suits, they have set up the present Plaintiffs and have obtained interim orders by suppressing material facts and particulars. The learned Senior Counsel submitted that the Court below failed to see that the Defendants will be put to irreparable loss, injury, damage and hardship, if the order of injunction is granted and the balance of convenience is only in favour of the Defendants and as such the Court below ought not to have granted injunction.

12. The learned Senior Counsel submitted that the Court below failed to appreciate the fact that if an ex parte order of injunction is granted, the day-to-day activities of the IELC would come to a stand still. The learned Senior Counsel submitted that the Court below has not recorded reasons for granting ex parte orders as mandated under Order 39, Rule 3, C.P.C.

13. The learned Senior Counsel further submitted that when the mandatory provisions contained under Order 39, Rule 3, C.P.C, have not been complied with by Court below and though the alternate remedy to get the interim order vacated is available under Order 39, Rule 4, C.P.C, the Petitioners are entitled to invoke the supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

14. In support of the aforesaid contentions, though several decisions have been referred to, this Court is referring only to the decisions which have a direct bearing on the issue to be decided in the above C.R.Ps. and not referring to the other decisions.

15. In the decision reported in Kashi Math Samsthan and Another Vs. Srimad Sudhindra Thirtha Swamy and Another, the Apex Court, in paragraph 16, has laid down as under:

16. It is well settled that in order to obtain an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a prima facie case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But it is equally well settled that when a party fails to prove prima facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove prima facie case to go for trial, it is not open to the Court to grant injunction in his favour even if, he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury if no injunction order is granted. Therefore, keeping this principle in mind, let us now see whether the Appellant has been able to prove prima facie case to get an

order of injunction during the pendency of the two Appeals in the High Court.

16. In *Indiabulls Finance Services Limited, New Delhi and another v. Jubilee Plots and Housing Private Limited*, represented by its Managing Director, Mr. R.P. Darrmalingam and two others, 2009 (4) CTC 64, the learned Single Judge of this Court has held that while granting an injunction *ex parte*, the Court was required to consider the *prima facie* case and balance of convenience. It is not sufficient that the Court reproduces the ingredients of Order 39, Rule 1 of the Code of Civil Procedure. The attempt of the Court should be to assess the merits of the case pleaded by the Petitioner on *prima facie* basis and the order should contain reasons which weighed with the learned Trial Judge for granting the order of injunction. Reasons should be indicated in the order. Reasons introduce clarity to the order and it would also enable the appellate or Revisional Authority to assess the factors which made the learned Trial Judge to grant the order of *ex parte* injunction.

17. In the same decision, in paragraph 23, it has been laid down as follows:

It is true that there is an alternative remedy available to the Revision Petitioners under Order 39, Rule 4 of the Code of Civil Procedure. It is also true that in normal circumstances the opposite party should be relegated to the Appellate remedy instead of invoking the Constitutional remedy. However in case where there was a genuine doubt with respect to the very maintainability of the Suit and there was no attempt on the part of the learned Trial Judge to examine the *prima facie* case of the matter before granting an order of injunction, there is no point in directing the parties to approach the Appellate remedy.

18. In *Surya Dev Rai Vs. Ram Chander Rai and Others*, the Apex Court has laid down various grounds on which the High Court can invoke the powers of Supervisory Jurisdiction under Article 227 of the Constitution of India. Among the several grounds, the following two grounds have also been laid down for interference:

(3) Certiorari, under Article 226 of the Constitution, is issued for correcting gross errors of jurisdiction i.e. when a Subordinate Court is found to have acted (i) without jurisdiction - by assuming jurisdiction where there exists none, or (ii) in excess of jurisdiction - by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of Principles of Natural Justice where there is no procedure specified, and thereby occasioning failure of justice.

(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 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.

19. In Kishore Kumar Khaitan and Another Vs. Praveen Kumar Singh, the Apex Court has laid down that failure to render necessary findings to support order would also be jurisdictional error liable to correction.

20. In Rt Rev Dr. V. Devasahyam, Bishop in Madras CSI and Another Vs. D. Sahayadoss and Others, , P. Sathasivam, J. (as His Lordship then was), has held as follows:

It is relevant to refer a decision of the Apex Court in State of U.P. Vs. District Judge, Unnao and Others, , wherein Their Lordships have held that rigid and inflexible view of jurisdiction under Article 227 should not be taken. Their Lordships have also held that "Article 227 or Article 226 was devised to advance justice and not to thwart it. Even as early as in 1954 the Constitutional Bench of the Supreme Court in Waryam Singh and Another Vs. Amarnath and Another, had held that the power of superintendence conferred by Article 227 is to be exercised most sparingly and only in appropriate cases in order to keep Subordinate Courts within the bounds of their authority apart from and independently of the provisions of other laws conferring Revisional jurisdiction on the High Court." It is also relevant to note the latest decision of the Supreme Court in Vadivelu Vs. Sundaram and Others, regarding the Revisional jurisdiction of this Court under Article 227 of the Constitution. In the said decision, Their Lordships have held in para 26 that "when there is error of jurisdiction or flagrant violation of the law laid down by this Court, by exercising the revisional powers, the Court can set aside the order passed by the Tribunal to do justice between the parties." It is clear that error of jurisdiction or flagrant violation of the law laid down by the Supreme Court can be set aside by this Court under Article 227 of the Constitution. As already referred to by me, in the case of granting injunction without hearing the opposite party, it is mandatory on the part of the Trial Court to record the reasons for its opinion for granting such injunction. When the said condition is violated, I am of the view that in order to do justice between the parties, this Court can interfere by exercising the revisional powers under Article 227 of the Constitution. The impugned order which is bereft of reason and laconic cannot stand a moment's scrutiny as ruled in Morgan Stanley Mutual Fund Vs. Kartick Das, If it is held that the compliance with the Proviso in Rule 3 is optional and not obligatory, then the introduction of the Proviso by the Parliament shall be a futile exercise. As observed by the Hon'ble Supreme Court, Proviso to Rule 3 of Order 39 of the Code, attracts the principle, that if a statute requires a thing to be done in a particular manner, it should be done in that manner or not at all. Inasmuch as this condition has been violated by the learned Subordinate Judge, the impugned order is liable to be set aside.

21. Learned Counsel for the Petitioners submitted that though it is open to the Petitioner to approach the Trial Court to get the interim order vacated, when the order passed by the Trial Court is contrary to the mandatory provisions contained under Order 39, Rule 3 of the Code, it is open to the Petitioner to directly approach this Court under Article 227 of The Constitution of India.

22. Countering the said submissions, S. Prabakaran, the learned Counsel for the Respondents 1 and 2 submitted that the Respondents 1 and 2 are not parties to the Suits filed by other parties which have been referred to by the learned Senior Counsel for the Petitioners and as such it cannot be heard to be contended that they have suppressed the material facts.

23. The learned Counsel submitted that there is flagrant violation of bye-laws of the Church and these aspects have been highlighted in the Complaint and only on a consideration of the Complaint averments, the Court below has come to the conclusion that prima facie case is made out and the balance of convenience lies in favour of the Respondents 1 and 2.

24. The learned Counsel further submitted that when an alternate remedy is available to the Petitioners under Order 39, Rule 4, C.P.C. to approach the Trial Court to get the interim order vacated, it is not open to the Petitioners to bypass that remedy and approach this Court under Article 227 of the Constitution of India.

25. In support of his contentions, the learned Counsel for the Respondents relied upon the following decisions:

26. In *A. Venkatasubbiah Naidu Vs. S. Challappan and Others*, the Apex Court, in paragraph 10 of the judgment, has laid down that any order passed in exercise of the powers conferred under Order 39, Rule 1, C.P.C., would be appealable as indicated in Order 43, Rule 1, C.P.C. The choice is for the party affected by the order either to move the Appellate Court or to approach the same Court which passed the ex parte order for any relief.

27. In *Surya Dev Rai Vs. Ram Chander Rai and Others*, the Apex Court has laid down the grounds on which the Supervisory Jurisdiction of this Court under Article 227 of the Constitution of India can be invoked.

28. In *S. Sarath Kakkamanu Vs. Anandraj* the learned Single Judge of this Court, in paragraph 20 of the judgment, has laid down as follows:

20. There is no doubt that this Court has wide powers, under Article 227 of the Constitution of India. Such powers are exercised only in appropriate cases, if the facts and circumstances of the case warrants such interference. In normal circumstances, it is for the Petitioner to invoke the alternative remedies available to him for the redressal of his grievances.

29. I have considered the aforesaid submissions made by the learned Counsel on either side and perused the materials available on record.

30. At the outset, it has to be seen as to whether the order passed by the Court below satisfies the requirement of Order 39, Rule 3 of the Code. In the considered view of this Court, the observation of the Court below that a prima facie case is made out and the balance of convenience is also in favour of the First Respondent cannot be considered to be the reason to be recorded tender

Order 39, Rule 3 of the Code. It has been held by the Apex Court as well as this Court in a number of decisions that Order 39, Rule 3 of the Code is not obligatory, but is mandatory. The Proviso to Order 39, Rule 3 of the Code was introduced to provide a condition, where Court proposes to grant an injunction without giving notice of the Application to the opposite party, being of the opinion that the object of granting injunction itself shall be defeated by delay. The condition so introduced is that the Court "shall record the reasons" why an ex parte order of injunction was being passed in the facts and circumstances of a particular case. In this background, the requirement for recording the reasons for grant of ex parte injunction cannot be held to be a mere formality.

31. In the following decisions, the Apex Court and this Court have laid down the circumstances under which the High Court can exercise supervisory jurisdiction under Article 227 of the Constitution of India and also laid down the need to record the reasons for granting ex parte order of injunction as contemplated under Order 39, Rule 3 C.P.C.:

(i) Shiv Kumar Chadha and Others Vs. Municipal Corporation of Delhi and Others, wherein the Apex Court has laid down as follows:

The imperative nature of the Proviso has to be judged in the context of Rule 3 of Order 39 of the Code. Before the Proviso aforesaid was introduced, Rule 3 said "the Court shall in all cases, except where it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of the Application for the same to be given to the opposite party". The Proviso was introduced to provide a condition, where Court proposes to grant an injunction without giving notice of the Application to the opposite party, being of the opinion that the object of granting injunction itself shall be defeated by delay. The condition so introduced is that the Court "shall record the reasons" why an ex parte order of injunction was being passed in the facts and circumstances of a particular case. In this background, the requirement for recording the reasons for grant of ex parte injunction, cannot be held to be a mere formality. This requirement is consistent with the principle, that a party to a Suit, who is being restrained from exercising a right which such party claims to exercise either under a statute or under the common law, must be informed why instead of following the requirement of Rule 3, the procedure prescribed under the Proviso has been followed. The party which invokes the jurisdiction of the Court for grant of an order of restraint against a party, without affording an opportunity to him of being heard, must satisfy the Court about the gravity of the situation and Court has to consider briefly these factors in the ex parte order. We are quite conscious of the fact that there are other statutes which contain similar provisions requiring the Court or the authority concerned to record reasons before exercising power vested in them. In respect of some of such provisions it has been held that they are required to be complied with but non-compliance therewith will not vitiate the order so passed. But same cannot be said in respect of the Proviso to Rule 3 of Order 39. The Parliament has

prescribed a particular procedure for passing of an order of injunction without notice to the other side, under exceptional circumstances. Such ex parte orders have far-reaching effect, as such a condition has been imposed that Court must record reasons before passing such order. If it is held that the compliance with the proviso aforesaid is optional and not obligatory, then the introduction of the Proviso by the Parliament shall be a futile exercise and that part of Rule 3 will be a surplusage for all practical purposes. Proviso to Rule 3 of Order 39 of the Code, attracts the principle, that if a statute requires a thing to be done in a particular manner, it should be done in that manner or not at all. This principle was approved and accepted in well known cases of *Taylor v. Taylor*, 1875 (1) Ch D 426: 45 LJ Ch 373 and AIR 1936 253 (Privy Council) This Court has also expressed the same view in respect of procedural requirement of the Bombay Tenancy and Agricultural Lands Act in the case of *Ramchandra Keshav Adke (Dead) by Lrs. and Others Vs. Govind Joti Chavare and Others*, As such, whenever a Court considers it necessary in the facts and circumstances of a particular case to pass an order of injunction without notice to other side, it must record the reasons for doing so and should take into consideration, while passing an order of injunction, all relevant factors, including as to how the object of granting injunction itself shall be defeated if an ex parte order is not passed. But any such ex parte order should be in force up to a particular date before which the Plaintiff should be required to serve the notice on the Defendant concerned. In the Supreme Court Practice 1993, Vol. 1 at page 514, reference has been made to the views of the English Courts saying:

Ex parte injunctions are for cases of real urgency where there has been a true impossibility of giving notice of motion....

An ex parte injunction should generally be until a certain day, usually the next motion day...."

(emphasis supplied)

(ii) *Morgan Stanley Mutual Fund Vs. Kartick Das*, wherein the Supreme Court laid down as follows:

As a principle, ex parte injunction could be granted only under exceptional circumstances. The factors which should weigh with the Court in the grant of ex parte injunction are:

- (a) whether irreparable or serious mischief will ensue to the Plaintiff;
- (b) whether the refusal of ex parte injunction would involve greater injustice than the grant of it would involve;
- (c) the Court will also consider the time at which the Plaintiff first had notice of the act complained so that the making of improper order against a party in his absence is prevented;
- (d) the Court will consider whether the Plaintiff had acquiesced for sometime and

in such circumstances it will not grant ex parte injunction;

(e) the Court would expect a party applying for ex parte injunction to show utmost good faith in making the Application;

(f) even if granted, the ex parte injunction would be for a limited period of time;

(g) general principles like prima facie case, balance of convenience and irreparable loss would also be considered by the Court.

(iii) The Andhra Social and Cultural Association Vs. R. Karuppan, wherein the Apex Court laid down as follows:

The order passed by the learned Judge does not satisfy the requirement of Order 39, Rule 3, CPC. The Honourable Supreme Court as well as this Court, in a series of decisions, have directed the subordinate Courts that they should pass speaking orders in terms of Order 39, Rule 3, CPC. In all those cases, it has been held that the requirement is mandatory that before granting an injunction without giving notice to the opposite party, the Court shall record reasons for its opinion and that the object of granting injunction would be defeated by delay.

(iv) Irin Stephan, Pradeep, Shaji and Prem Vs. J. Musafargani, wherein this Court has laid down as follows:

What is challenged before this Court by the revision Petitioners is that, a cryptic order of ex parte order of injunction has been passed by the Trial Court disregarding Rule 3 of Order 39, C.P.C. and therefore, such an order is illegal and is to be set aside. I have already held that Rule 3 of Order 39 as a mandatory one and therefore, that should be followed in letter and spirit by the Trial Court. When the Trial Court decides to grant an ex parte order of injunction under Order 39, Rule 1 and 2, C.P.C, the Trial Court should mandatorily follow Rule 3 of the Code and if the subordinate Courts do not adhere to this mandatory rule and pass ex parte orders of injunction by exceeding their limits and jurisdiction, the Trial Courts need to be restrained by this Court under Article 227 of the Constitution of India, to see that the Trial Court is complying with the mandatory rules of the procedure code. Therefore, I have no hesitation in holding that the order of the Trial Court is illegal and accordingly, the same is set aside.

(v) Rt Rev Dr. V. Devasahyam, Bishop in Madras CSI and Another Vs. D. Sahayadoss and Others, wherein this Court held thus:

It is relevant to refer a decision of the Apex Court in State of U.P. Vs. District Judge, Unnao and Others, , wherein Their Lordships have held that rigid and inflexible view of jurisdiction under Article 227 should not be taken. Their Lordships have also held that "Article 227 or Article 226 was devised to advance justice and not to thwart it. Even as early as in 1954 the Constitutional Bench of the Supreme Court in Waryam Singh and Another Vs. Amarnath and Another, had held that the power of superintendence conferred by Article 227 is to be exercised most sparingly and only in appropriate cases in order to keep

Subordinate Courts within the bounds of their authority apart from and independently of the provisions of other laws conferring revisional jurisdiction on the High Court. It is also relevant to note the latest decision of the Supreme Court in *Vadivelu Vs. Sundaram and Others*, regarding the revisional jurisdiction of this Court under Article 227 of the Constitution. In the said decision, Their Lordships have held in para 26 that "when there is error of jurisdiction or flagrant violation of the law laid down by this Court, by exercising the revisional powers, the Court can set aside the order passed by the Tribunal to do justice between the parties." It is clear that error of jurisdiction or flagrant violation of the law laid down by the Supreme Court can be set aside by this Court under Article 227 of the Constitution. As already referred to by me, in the case of granting injunction without hearing the opposite party, it is mandatory on the part of the Trial Court to record the reasons for its opinion for granting such injunction. When the said condition is violated, I am of the view that in order to do justice between the parties, this Court can interfere by exercising the Revisional powers under Article 227 of the Constitution. The impugned order which is bereft of reason and laconic cannot stand a moment's scrutiny as ruled in *Morgan Stanley Mutual Fund Vs. Kartick Das*, . If it is held that the compliance with the Proviso in Rule 3 is optional and not obligatory, then the introduction of the Proviso by the Parliament shall be a futile exercise. As observed by the Hon'ble Supreme Court, Proviso to Rule 3 of Order 39 of the Code, attracts the principle, that if a statute requires a thing to be done in a particular manner, it should be done in that manner or not at all. Inasmuch as this condition has been violated by the learned Subordinate Judge, the impugned order is liable to be set aside.

32. The party, who invoked the jurisdiction of the Court for grant of an order of restraint against a party, without affording an opportunity to him of being heard, must satisfy the Court about the gravity of the situation and the Court has to consider briefly these factors in the ex parte order. Such ex parte orders have far-reaching effect and as such, a condition has been imposed that Court must record reasons before passing such order. If it is held that the compliance of the Proviso aforesaid is optional and not obligatory, then the introduction of the proviso by the Parliament shall be a futile exercise and that part of Rule 3 will be a surplusage for all practical purposes. Proviso to Rule 3 of Order 39 of the Code attracts the principle that if a statute requires a thing to be done in a particular manner, it should be done in that manner or not all. When a Court considers it necessary, in the facts and circumstances of a particular case, to pass an order of injunction without notice to other side, it must record reasons for doing so and should take into consideration, while passing an order of injunction, all relevant factors, including as to how the object of granting injunction itself shall be defeated, if an ex parte order is not passed.

33. In this case, a perusal of the order passed by the Court below shows that it is bereft of reasons and it has not even referred to the brief facts of the case to arrive at a conclusion that a prima facie case has been made out and the balance of convenience lies in favour of the First Respondent. It has not recorded that if

the ex parte order of injunction is not granted, the object of granting injunction will be defeated and the Plaintiff will be put to great hardship, which cannot be compensated by costs. In the considered view of this Court, the order does not contain a single reason for granting injunction.

34. As far as the contention as to the maintainability of the Civil Revision Petition is concerned, learned Counsel for the Respondents 1 and 2 mainly relied upon the decision in the case of A. Venkatasubbiah Naidu Vs. S. Challappan and Others, . This decision has been elaborately considered by His Lordship Mr. Justice P. Sathasivam (as His Lordship then was) in the decision reported in Rt Rev Dr. V. Devasahyam, Bishop in Madras CSI and Another Vs. D. Sahayadoss and Others,), which has been extracted above. After considering the said decision and other number of decisions of the Apex Court, His Lordship has held that when there is error of jurisdiction or flagrant violation of the law laid down by this Court, by exercising the Revisional powers, the Court can set aside the order passed by the Tribunal to do justice between the parties. His Lordship has further held that in the case of granting injunction without hearing the opposite party, it is mandatory on the part of the Trial Court to record reasons for its opinion for granting such injunction. When the said condition is violated, I am of the view that in order to do justice between the parties, this Court can interfere by exercising the Revisional powers under Article 227 of the Constitution. In the light of the said decision, I am unable to countenance the submissions of the learned Counsel for the Respondents 1 and 2. Even in the decision reported in Surya Dev Rai Vs. Ram Chander Rai and Others, cited supra, relied upon by the learned Counsel for the Respondents 1 and 2, the Apex Court has laid down that if the Court has acted in flagrant violation of law and acted in violation of Principles of Natural Justice where there is no procedure specified and thereby occasioning failure of justice and the High Court can exercise its Supervisory Jurisdiction under Article 227 of the Constitution of India.

35. In the very same decision, it has further been held that 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.

36. In the light of the aforesaid decisions rendered by the Apex Court, this Court is unable to follow the decision reported in S. Sarath Kakkamanu Vs. Anandraj

37. As the order sought to be revised in this Revision does not satisfy the requirements of the Proviso to Order 39, Rule 3 of the Code and the said Proviso attracts the principle that if a statute requires a thing to be done in a particular manner, it should be done in that manner or not at all, inasmuch as this condition has been violated by the Trial Court, the impugned order is liable to be set aside. For the foregoing reasons, the Revision Petitions are allowed setting aside the impugned orders, dated 30.6.2010. The Court below is hereby directed to dispose of the I.A. Nos. 11486 and 11488 of 2010 in O.S. No.5975 of 2010 on merits and in accordance with law within one month from the date of receipt of a

copy of this order. No costs. Connected M.Ps. are closed.