

(2004) 10 OHC CK 0008

In the Orissa High Court

Case No : Writ Petition (C) No. 9320 of 2004

Jeypore Evangelical Lutheran Church and Others

APPELLANT

Vs

Surendra Kumar Bagh and Others

RESPONDENT

Date of Decision : 16-10-2004

Acts Referred:

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

Citation : AIR 2005 Ori 47 : (2005) 99 CLT 259

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : N. Patra, for the Appellant; S.D. Das, for the Respondent

Judgement

A.S. Naidu, J.—Defendant Nos. 1, 2, 11, 13 and 14 in Title Suit No. 4 of 2002 pending before the Learned Civil Judge (SD), Jeypore have approached this Court assailing the Order dated 9.8.2004 (Annexure-5) passed by the District Judge-, Koraput, Jeypore in FAO No. 8 of 2002 reversing the Order dated 17.12.2002 (Annexure-4) passed by the Civil Judge (SD), Jeypore in MJC No. 2 of 2002 filed under Order 39, Rules 1 and 2 of the CPC in aforesaid Title Suit No. 4 of 2002.

2. The aforesaid Title Suit has been filed by Opp. Parties 1 to 5 as plaintiffs with the prayer to pass a decree in their favour and against the defendants, i.e. :

(a) to hold that there was no election for electing any of the office-bearers in the hierarchy of Defendant No. 1, Church Council;

(b) to hold that Defendant Nos. 2 to 17 are self-styled office- bearers;

(c) to direct Defendant No. 18 to chalk out appropriate measures to control the administration of Defendant No. 1 Society at Jeypore; and

(d) to pass such other orders as the Hon"ble Court deems fit and proper.

3. Along with the plaint the plaintiffs filed a petition under Order 39, Rules 1 and

2 read with Section 151 of the CPC which was registered as MJC No. 2 of 2002 praying :

(1) to restrain the defendant-opposite parties from conducting the consecration of Opp. Party No. 3 on 20.1.2002;

(2) to permit the petitioners and the Christian public at large to make Sunday prayers as before separately from that of the group of the defendant-opposite parties;

(3) to direct Opp. Party No. 18 to take immediate action to bring out a solution in the affairs of defendant-Opp. Party No. 1 both in administrative and religious fields; and

(4) to appoint a caretaker body to take immediate charge of Defendant No, 1 and its affairs both the administrative and religious;

(5) And to pass such others orders as the Hon''ble Court deems fit and proper.

4. Admittedly the dispute centres found two groups belonging to the Christian community of Jeypore with regard to the management of Jeypore Evangelical Lutheran Church which is the sacred temple of Lord. Christian worship the Lord Christ whose Commandments include brotherlihood, love for each other and pardoning one another as Lord pardons all. A person bereft of all these qualities if not worthy to be called a Christian, a follower of Christ. A person who is not above his self-emotions, ego and spite at others and does not have love for people cannot be called a worshipper of Christ in true sense. When the matter was argued before me I was shocked to find the hatred and ill-feeling among the parties who claim to be Christians. Being the believers of Lord Christ they are expected to maintain harmony with regard to worship of the Lord. Rushing to Court with litigations without sorting out the problems among themselves with love and pardoning each other has been deprecated in the Holy Bible itself.

The Holy Bible in I Corinthians, Chapter 6, Verse 7 says :

Now therefore there is utterly a fault among you, because ye go to law one with another. Why do ye not rather take wrong ? Why do ye not rather suffer yourselves to be defrauded ?

5. Leaving aside emotions, let us come to the dispute among the parties inter se. The Trial Court after appreciating the materials available, by Order dated 17.12.2002 in MJC 2/02 held that the petitioners were not entitled to get the reliefs sought in the Misc. Case. However, in the ends of justice it directed both sides to maintain status quo and to offer Sunday prayer in the Church jointly without causing any indiscipline or hurt to the sentiments of the people of the Christian Community at Jeypore at large, till disposal of the suit. The said order was challenged by the plaintiffs in appeal under Order 43, Rule 1, CPC before the District Judge, Koraput, which was registered as FAO No. 8 of 2002. The Appellate Court by a well-discussed judgment allowed the appeal on contest

holding that the plaintiffs were entitled to be permitted to offer their Sunday prayer separately from the group of the opposite parties till final solution was brought between the parties. Accordingly the Appellate Court directed defendant-Opp. Party No. 18 to take immediate action to bring out solution in the affairs of the Church, both administrative and religious and to appoint a care-taker body to take charge of the affairs of the Church. The Appellate Court has also observed that if such action is taken by the Church authorities at Chennai, other problems like misappropriation by the persons now in management of the affairs of the Church as also the dissensions among the two groups of people of the community can be sorted out. As stated earlier, the defendants have assailed this appellate order.

6. Mr. Patra, Learned Counsel appearing for the petitioners, forcefully submitted that the persons who claim to be the elected office-bearers have no locus standi to continue as such, as the election itself was tainted. He further submitted that by making unholy combination some persons are illegally sticking to the affairs of the Church, thereby causing a dent in the smooth administration of the Church and disturbing the peace and tranquility in the Church premises. They are not only causing immense hardship to the common populous but are also creating barriers and breach in the holy place like Church. He further submitted that unless an order of restraint is passed the plaintiffs will be highly prejudiced and the property of the Church may be squandered away.

7. Mr. S. D. Das, Learned Counsel for the opposite parties, at the other hand strongly repudiated the allegations levelled against the persons in Management of the affairs of the Church. While supporting the order of the Appellate Court, Mr. Das submitted that the Church is a Society and is managed in consonance with its bye-laws. The bye-laws specifically provide that if there is any difference or dispute, the same should be streamlined, decided or resolved by Defendant No. 18 the authority of Defendant No. 1-Church. According to Mr. Das, the order of the appellate Court is just, proper and in the interest of the parties.

8. I have heard Learned Counsel for the parties patiently, perused the materials on record meticulously and considered the submissions diligently. It is clear from the averments made in the pleadings and the arguments advanced before this Court that there is a great hatred among two groups of people of the Church. It would not be congenial to allow the people of both the groups to offer their Sunday prayer at one time, lest the peaceful atmosphere of the Church may be jeopardized. I am therefore not inclined to interfere with the appellate order Annexure-5 directing the parties to hold their prayers at the Church at different times on Sunday or any other day as and when occasion arises.

9. It appears that the so-called tainted election took place on 14.10.2001. The term of the office-bearers, as submitted by the Learned Counsel for the parties, is for four years. The elected body is managing the affairs of the Church for the last three years and hardly one year is left now. At this belated stage restraining the present Management would not be just and proper. Even otherwise, the relief

sought in the Title Suit as also the MJC is substantially the same and as such the same cannot be granted at this stage. In view of the aforesaid discussion I find no illegality in the observation of the Appellate Court. It is needless to say that the Church being a Society, has to be guided by its bye-laws. There are also provisions in the bye-laws to agitate the inter se disputes before the competent superior authority. In view of such provision, passing any order at this juncture would not be beneficial to either side and that may also tinkle with religious rites of the common populus. I direct that the United Evangelical Lutheran Church of India, Defendant No. 18 which is admittedly the superior body of the Defendant No. 1 -Church shall take a decision regarding the affairs of the Defendant No. 1 Church. Status quo with regard to Management of the affairs of the Church shall continue.

10. With the aforesaid observation/Defendant No. 1 dispose of this Writ Petition. Liberty is given to the petitioners to approach the Court below if there is any changed circumstances or they are anyway prejudiced by the decision of Defendant No. 18 in which event the said Court will consider their grievance in accordance with law.