

(2013) 11 KAR CK 0264
In the Karnataka High Court
Case No : C.M.P. No. 59 of 2011

Mr. K.S. Papachan

APPELLANT

Vs

M/s. Renewal Retreat Centre Trust and Others

RESPONDENT

Date of Decision : 28-11-2013

Acts Referred:

Religious Societies Act, 1880 — Section 1, 2, 9

Citation : (2014) 2 AKR 397

Hon'ble Judges : H. Billappa, J

Bench : Single Bench

Advocate : M.A. Sabastian, for the Appellant; M.C. Mohan, for R1, R11 to 14, for the Respondent

Final Decision : Dismissed

Judgement

H. Billappa, J.—The petitioner has filed this petition u/s 9 of the Religious Societies Act, 1880 praying the Court to give its opinion on certain points.

The first respondent Trust was registered on 13.3.1995. The respondents 1 to 10 are the present Trustees. The Trust Deed was amended on 26.2.2008. The respondents 11 and 12 have transferred the 9th respondent-Managing Trustee on 13.1.2011 and announced the appointment of the Superior of Vidya Bhawan by name Rev. Fr. Anthony, the 14th respondent as the Managing Trustee without the resolution of the Trustees or following the procedure prescribed u/s 2 of the Act.

On 8.2.2011, the Trust approached the City Civil Court in O.S. No. 25254/2011 praying to restrain the respondent No. 10 from interfering or taking over the management of the Trust. The case is pending. In the objection statement filed by the 11th respondent in O.S. No. 25254/2011, it is asserted that the Trust belongs to the 13th respondent. The Trial Court has rejected I.A. I and I.A. IV stating that the Trust has no independent existence. The petitioner being a religious society has serious doubt as to whether the respondents 13 and 14 are members of the Trust. Therefore, certain points have been raised for courts

opinion.

2. The respondents 1 and 11 to 14 have raised a preliminary objection contending that the petition is not maintainable. Section 1 of the Religious Societies Act, 1880, excludes the applicability of the Religious Societies Act, 1880 to the territories which were part of erstwhile Part B States immediately before 1.11.1956. The first respondent is situated within the territorial limits of Bangalore City which was part of Mysore state which was one of the Part B States. Therefore, the petitioner is not maintainable.

3. The learned counsel for the petitioner contended that in view of Adaptation of Laws Orders, the provisions of the Religious Societies Act, 1880 are applicable to the whole of India and therefore, the petition is maintainable. He also submitted that by virtue of Adaptation of Laws Orders and substitution made to Section 1 of the Religious Societies, 1880 it is applicable to whole of India. He also invited my attention to the amendment made to Transfer of Property Act. Therefore, he submitted that the Religious Societies Act, 1880 is applicable to whole of India and therefore, the petition is maintainable.

4. As against this, the learned counsel for the respondent 1 and 11 to 14 submitted that it is very clear that the provisions of the Religious Societies Act, 1880 are extended to the whole of India except the territories which immediately before 1.11.1956 were part of part B States. Mysore State was part of Part B States and therefore, the petition is not maintainable.

5. I have carefully considered the submissions made by the learned counsel for the parties.

6. Clause 3 of Adaptation of Laws (No. 2) Orders 1956 reads as follows:

As from the first day of November 1956, the Central Acts, Regulation and Order mentioned in the Schedules to this Order shall, until repealed or amended by a competent Legislature or other competent authority, have effect subject to the adaptations and modifications directed by those Schedules or, if it is so directed, shall stand repealed.

7. In the Schedule substitution is made to section 1 of the Religious Societies Act, 1880 as follows:

Section 1 - For "Part B States" substitute "the territories which immediately before 1st November 1956 were comprised in Part B States".

It is clear, The Religious Societies Act, 1880 is in force by virtue of the Adaptation of Laws Orders (No. 2). However, in view of the substitution to Section 1, it is clear that the Religious Societies Act, 1880 extends to the whole of India except the territories which immediately before 1st November 1956 were comprised in Part B States. Erstwhile Mysore State was part of part B States immediately before 1.11.1956. Therefore, the provisions of the Religious Societies Act, 1880 are not applicable to the territories which immediately before 1st November,

1956 were part of Part B States. Therefore, the preliminary objection raised by the respondents that the petition is not maintainable is upheld.

Accordingly, the petition is rejected as not maintainable.