
(2006) 03 AP CK 0036
In the Andhra Pradesh High Court
Case No : CRP No. 1107 of 2005

Rev. Karra Jeremaiah (President)

APPELLANT

Vs

Kurrakula Lazarus and Others

RESPONDENT

Date of Decision : 22-03-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 14 Rule 1, Order 14 Rule 5, Order 7 Rule 11, Order 8 Rule 2, 21

Citation : (2006) 4 ALD 674 : (2006) 3 ALT 407

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : K. Manik Prabhu, for the Appellant;

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—Respondents 1 to 3 herein filed O.S. No. 36 of 2000 in the Court of the Principal Junior Civil Judge, Parchur against respondents 4 to 7, for a declaration that the 63rd convention of East Guntur Synod held on 14-4-2000, is illegal, unenforceable and for an injunction restraining respondents 4 to 7 herein from convening the official meetings and conventions outside the Church premises. The petitioner herein is said to have elected as the President of the fourth respondent Synod (first defendant). On that basis, he got himself impleaded as the fifth defendant in the suit.

2. The petitioner filed I.A.No. 779 of 2004 under Order 14 Rule 5 CPC with a prayer to frame an additional issue, touching on the territorial jurisdiction of the trial Court. The application was rejected through the docket order, dated 20-1-2005, on the ground that such a plea was not raised in the written statement. The same is challenged in this civil revision petition.

3. Sri AT. Manik Prabhu, the learned Counsel for the petitioner, submits that the trial Court basically did not have the territorial jurisdiction to entertain the suit. He contends that even in the absence of a plea in the written statement, such an

issue can be framed and the trial Court committed an error in rejecting the application.

4. Though the respondents are served with notices, they have not chosen to enter appearance.

5. The petitioner wanted the trial Court to frame an additional issue, touching on the jurisdiction to entertain the suit. The application was rejected on the ground that such a plea was not raised in the written statement.

6. It is difficult to accept the contention of the learned Counsel for the petitioner that the issues touching on the jurisdiction can be framed, even in the absence of any pleading. In this regard, it must be noted that Section 9 CPC confers jurisdiction on the Civil Courts to entertain suits of every category, unless they are specifically excluded by any provision of law. Section 21 mandates that any objection as to territorial jurisdiction must be raised, at the earliest point of time. Rule 2 of Order 8 requires that any objection as to maintainability must be specifically raised in a written statement. A perusal of Rule 1 of Order 14 CPC makes it clear that the necessity to frame an issue would arise, if only, there is assertion by one party and denial by another. Such assertions and denials can be only through pleadings. C.P.C does not recognize any other mode in this regard. In the absence of any pleading in the plaint or written statement, the trial Court is, virtually helpless in the matter of framing issues.

7. There may be exceptional cases where the Court itself can formulate an issue, if the matter can be brought within the scope of Rule 11 of Order 7. Admittedly, the petitioner did not raise any plea as to lack of jurisdiction in the trial Court. If for any reasons he omitted to do so, he ought to have taken necessary steps to amend his written statement. Without taking such a step, he cannot expect the Court to frame an issue. Hence, this Court does not find any basis to interfere with the order under revision.

8. The civil revision petition is accordingly dismissed, leaving it open to the petitioner to amend his written statement, if he is so advised and thereafter, make a request for framing additional issue. As and when such steps are taken, the trial Court shall deal with the same on their own merits.