
(1973) 08 KAR CK 0007

In the Karnataka High Court

Case No : Civil Revision Petition No. 987 of 1973

Sree Venkataramana Temple Board of Education, Karkala

APPELLANT

Vs

C. Manjunatha Kamath and others

RESPONDENT

Date of Decision : 01-08-1973

Acts Referred:

Citation : AIR 1974 Kar 59

Hon'ble Judges : Jagannatha Shetty, J

Bench : Single Bench

Advocate : U.L. Narayana Rao, for the Appellant; B.P. Holla, to 6, for the Respondent

Final Decision : Dismissed

Judgement

Jagannatha Shetty, J.—The petitioners are aggrieved by the order appointing a receiver to manage certain educational institutions which were formerly managed by them.

2. They filed O. S. No. 168/71 for declaration that they are the duly and validly constituted members of Shree Venkataramana Temple Board of Education and entitled to manage and conduct three schools pertaining to the temple. The suit was also for permanent injunction to restrain the defendants from interfering in their management. The plaintiffs obtained a temporary injunction. The appeal against the said injunction order is pending disposal before the Court of the Civil Judge at Udipi. When the injunction order was thus operative against the defendants, the defendants filed an application under Order XL, Rule 1, Civil P.C. for appointment of a receiver complaining that the said schools are not properly managed by the plaintiffs. The trial Court after enquiry appointed one of the members of the Local Bar as a receiver. The plaintiffs appealed. The learned Civil Judge while affirming the order of appointment of the receiver, has dismissed the appeal. Hence this revision petition.

3. Sri U. L. Naravana Rao. learned counsel for the petitioners urged two points,

viz., (1) that it was not proper for the trial Court to appoint a receiver to manage the properties in respect of which, there is already an order of injunction in favour of the plaintiffs: and (2) that the defendants did not prove any mis-management of the educational institutions by the plaintiffs, and therefore, the appointment of the receiver was without jurisdiction.

4. On the first contention, I do not think that there is any impropriety or illegality committed by the Court If circumstances of any case. Justify the appointment of a receiver, the Courts do well in exercising discretion by appointing a receiver and preserving the property in dispute. Order XL. Rule 1, Civil P. C gives a wide power to the Court to appoint a receiver, if it is just and convenient Such appointment could be made at any time not only on the application of a party to the suit but also of one who is not a party to the suit but interested in the preservation of the property. It can do so even suo motu. There is no inflexible rule that the Court should not appoint a receiver to manage the suit properties in respect of which there is an injunction in favour of one of the parties to the suit.

5. Turning now to the second contention, it is true that the defendants did not specify. In their application, the acts of mis-management or waste committed by the plaintiffs. The trial Court also has not specifically stated the acts of mismanagement But the appellate Court in its elaborate judgment has held that the plaintiffs are mis-managing the educational institutions. On that ground it has affirmed the order of appointment of the receiver.

6. I do not think that I can disturb the said finding in my revisional jurisdiction, as the appellate order is not vitiated by any error of jurisdiction. There is one other reason why I should not interfere at this stage. The receiver has already taken over the management of the institutions when this Court vacated the stay order after notice to the respondents. It is therefore not proper to dispossess the receiver from his management of the educational institutions. The Educational Institutions should not be made to suffer by frequent change of management.

7. Having regard to the suit and the counter-suit which is filed by the petitioners and respondents, it is proper that the trial Court should expeditiously dispose of those suits, i. e. O. S. 111/71 and O. S. 168/71 as early as possible.

8. With the above observation, this revision petition is dismissed, but no costs.