
(2006) 04 AP CK 0026
In the Andhra Pradesh High Court
Case No : CRP No. 188 of 2005

Srisaila Kshetra All India Arya Vysya Anna Satra Sangam and Others APPELLANT

Vs

P. Satyanarayana and Others RESPONDENT

Date of Decision : 12-04-2006

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 — Section 156, 17, 20, 6
Andhra Pradesh General Clauses Act, 1891 — Section 151, 8, 87
Civil Procedure Code, 1908 (CPC) — Section 156, 16, 2, 6, 92

Citation : (2006) 5 ALD 89

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : C.V. Mohan Reddy, for the Appellant; Satyanarayana Nimmagadda, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The respondents filed O.S. No. 49 of 2000 in the Court of Principal District Judge, Kurnool u/s 92 of CPC. They sought for a decree against the petitioners herein, for rendition of accounts for the years 1998-99 and 1999-2000 and for removal of petitioners 2 and 3 herein, from the posts of President and Secretary of Srisaila Kshetra All India Arya Vysya Anna Satra Sangam (for short "Sangam") and for framing a scheme for proper and efficient functioning of the Sangam. The petitioners filed the written statement. They raised an objection as to the jurisdiction of the trial Court to entertain the suit. The trial Court framed the relevant issues. The first issue was as to whether the first respondent herein is a public trust, attracting the provisions of Section 92 of CPC and whether the suit for framing the scheme, is maintainable. This plea was raised by relying upon Section 156 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"), which rendered the proceedings u/s 92 of CPC inapplicable for the matters arising

under the Act. The petitioners insisted that the maintainability of the suit be taken as preliminary issue. After hearing both the parties, the trial Court rendered the judgment dated 1-11-2004 deciding the preliminary issue against the petitioners. Hence, this revision.

2. Sri Venugopal Reddy, the learned Counsel for the petitioners submit that the first petitioner is a religious endowment and is covered by the provisions of the Act. He contends that Section 156 of the Act bar the suits filed u/s 92 of the CPC, and in that view of the matter, the trial Court ought to have decided the preliminary issue in favour of the petitioners.

3. Sri TV. Satyanarayana, the learned Counsel for the respondents, on the other hand, submits that the first petitioner is neither registered u/s 6 of the Act, nor there exists any order or adjudication declaring it to be a religious institution or endowment, and in that view of the matter, no exception can be taken to the order under revision.

4. The first petitioner is a society registered under the Societies Registration Act. From the very nomenclature it is evident that it undertakes certain charitable activities for the benefit of the members belonging to the Vysya community etc. The respondents approached the trial Court with a prayer to pass a decree for rendition of accounts, removal of petitioners 2 and 3 and for framing of scheme as provided for u/s 92 of the CPC.

5. The petitioners contend that the suit is not maintainable in view of the bar contained u/s 156 of the Act, which reads as under :

156. Central enactments cease to apply to charitable and religious institutions :? The enactments mentioned below shall cease to apply to Charitable and the Hindu Religious Institutions and Endowments thereof to which this Act applies; and Section 8 of the Andhra Pradesh General Clauses Act, 1891, shall apply upon such cessor as if these enactments had been repealed by an Andhra Pradesh Act,?

(a) the Andhra Pradesh (Andhra Area) Endowments and Escheats Regulation, 1817;

(b) the Religious Endowments Act, 1863;

(c) the Charitable Endowments Act, 1890;

(d) the Charitable and Religious Trusts Act, 1920; and

(e) Sections 92 and 93 of the Code of Civil Procedure, 1908

From a perusal of the said provision, it is evident that Sections 92 and 93 of CPC are made inapplicable to Charitable and the Hindu Religious Institutions and Endowments "to which this Act applies.

6. Section 2 of the Act defines the expressions "charitable institution" and "religious endowments" etc. It is not as if every body, agency or institution which

answers the description of the terms referred to above, is brought under the purview of the Act. Section 6 of the Act empowers the Commissioner to prepare and publish the lists of charitable institutions and endowments, religious institutions and endowments and other mutts. The list so prepared is to comprise of three categories depending upon the income derived by them. Further Section 16 of the Act provides for constitution of Board of Trustees only in respect of those institutions which are included in the list to be prepared u/s 6 of the Act. Several other provisions of the Act, in one manner or the other, refer to factum of the institution being included in the list contemplated u/s 6, in the matter of their application. Reference in this context may be made to Sections 17, 20 etc.

7. If there exists any dispute as to the character of such institutions, Section 87 provides for the adjudication of the disputes by the Deputy Commissioner of Endowments, having jurisdiction over the concern area. Further, Section 151 of the Act bars the jurisdiction of the Civil Courts in relation to the disputes which can be determined under the Act. In other words even where the religious institution or endowment is registered u/s 6 of the Act or not, and any dispute is raised touching upon the determination of the character of such institution, such dispute can be resolved only by instituting proceedings u/s 87 of the Act. However, the bar does not operate in relation to the other kinds of remedies in respect of the institutions which are not registered u/s 6 of the Act. If any person intends to bring any institution, which is not included in the list prepared u/s 6, within the purview of the Act, the only course is to institute proceedings u/s 87. Therefore, in the limited context of the bar of jurisdiction or operation of Section 156 of the Act, the predominant criterion would be whether the institution in question is the one registered u/s 6 of the Act or whether in any proceedings u/s 87 of the Act any declaration was made, bringing it within the fold of the Act.

8. The trial Court had undertaken extensive discussion with reference to decided cases and this Court does not find any basis to interfere with the same. The C.R.P. is accordingly, dismissed.