

(1998) 08 AP CK 0020

Andhra Pradesh High Court

Case No: CRP No. 4203 of 1996

Rev. Moyya Gabriel Dhanaraju

APPELLANT

Vs

V. Venkata Kantharao and
Another

RESPONDENT

Date of Decision: Aug. 6, 1998

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 1 Rule 10

Citation: (1998) 5 ALD 298 : (1998) 5 ALT 600

Hon'ble Judges: B.S.A. Swamy, J

Bench: Single Bench

Advocate: Mr. K.V. Subrahmanya Narasu, for the Appellant; Mr. Ch. Samson Babu, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. Questioning the order of dismissal passed in I.A. No. 143 of 1996 in O.S.No.7 of 1996 by the Additional Subordinate Judge, Srikakulam, refusing to permit the petitioner to come on record as party defendant to the suit, the petitioner filed this revision petition.
2. The case of the petitioner is that the suit schedule property belongs to the Church and the 2nd respondent entered into an agreement to sell away the property to the Ist respondent herein. Apprehending a collusive decree between the parties, the Pastor of the Church filed the present application seeking permission to implead himself as a party defendant to the suit. The Additional Subordinate Judge dismissed the application on the ground that on third party application can be entertained in a suit for specific performance.
3. Generally in a suit for specific performance third parties intervention is not appreciated. It is not rule of thumb more so in a case of this nature. It is the case of

the petitioner that the property belongs to the Church. In other words it is a property belonging to a Congregation and any one can raise an objection and question the competence of the Association to sell away the property more so keeping the high inflation in the market rates of the immovable properties in mind. Hence the Court should be more cautious in dealing with the properties belonging to a community or a class and see that every possible precaution is taken that the persons in office at a particular time cannot squander away the properties of this nature without the approval of the General Body. Hence the reasons given by the Subordinate Judge in dismissing the application are not sound in law.

4. Accordingly the order of the Subordinate Judge is set aside and the application for impleadment is allowed under Order 1 Rule 10 C.P.C.

5. The revision petition is allowed. No costs.