
Kunisetti Gangi Reddy Vs Kukkuteswara Swamy Temple and Others

C.R.P. No. 2946 of 1990

Court: Andhra Pradesh High Court

Date of Decision: Aug. 18, 1992

Acts Referred:

Civil Procedure Code, 1908 (CPC) & Order 1 Rule 10, 115

Citation: (1993) 1 ALT 677 : (1992) 2 APLJ 501

Hon'ble Judges: Neeladri Rao, J

Bench: Single Bench

Advocate: Koka Reghava Rao, for the Appellant;

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Neeladri Rao, J.

The plaintiff in O.S.No. 90/89 on the file of the District Munsif, Pithapuram, is the Revision Petitioner. The suit was filed

for an injunction against respondents 2 to 6 herein restraining them from interfering with the possession of the plaint- schedule property by alleging

that he had taken the plaint schedule land on lease from the 1st Respondent herein and that R-2 to R-6 herein have no manner of interest in the

property. R-I herein filed I.A.No. 755/89 under Order-I, Rule 10, C.P.C with a prayer that it should be allowed to come on record to contest the

suit. The said petition was allowed and it is attacked in this revision petition.

2. Admittedly R-1 herein is the owner of the plaint-schedule property. R-1, temple had filed eviction petition as against the revision petitioner

herein. The eviction was ordered and the same was confirmed by the appellate court. The revision petitioner herein filed W.P.No. 9636/87 for

issual of a direction as against R-1 temple herein restraining them from dispossessing him from the land as he has a right u/s 82 (2) of the A.P.

Charitable and Hindu Religious Institutions and Endowments Act (for short the "Act"). During the pendency of the Writ Petition, this court

appointed a Commissioner in W.P.M.P. No. 1334/87 to find out as to whether the petitioner/R-I is in possession of the land in question. It is

submitted that the said Commissioner had given a report to the effect that the petitioner continued to be in possession of the land. It is also now

represented that the revision petitioner filed a suit to enforce his right u/s 82 (2) of the Act and it is pending.

3. In the affidavit filed in support of I.A. No. 755/89 it was alleged for R-1 herein that in order to have the support for the Writ Petition, the

revision petitioner herein had chosen to file O.S.No. 90/89 and it is by way of fraud on the court and as it was filed collusively, they may be

permitted to contest the suit.

4. The suit is for mere injunction as against R-2 to R-6 herein. Any decree if passed in the suit does not bind R-I. If the latter is of the view that this

suit would affect their interest, they are free to file a suit claiming appropriate relief. But it is not a matter wherein they should be allowed to come

on record as the defendant in the suit for injunction.

5. Subject to the above, this revision is allowed and the impugned order is set aside and I.A.No. 755/89 is dismissed. No costs.