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O.S.No.166/2024

IN THE COURT OF C/C I ADDL CIVIL JUDGE AND JMFC.,

SAKALESH PURA

:Present:

SRI. LAKSHMI NARASIMHA R.V, B.A.L., L.L.B.,

C/c I Addl. Civil Judge & JMFC., Sakaleshpura.

Dated 16th Day of April, 2026

O.S. No. 166/2024

Plaintiff : Sri. Ronald D Souza.

V/s

Defendants : Rev. Dr. T. Anthony
Swamy and others

ORDER ON PRELIMINARY ISSUE (ISSUES No.3)

The plaintiff has filed the present suit for the relief of declaration to declare that the suit schedule property is belonging to 'Our Lady of Mercy Church, Sakaleshpura and consequential relief of mandatory injunction to evacuate the



temporary illegally erected structure in the suit schedule property and also to show the proper accounts of Our Lady Mercy Church, Sakaleshpura.

2. The brief facts of the case follows as under:

The suit schedule property is belonging to Our Lady of Mercy Church, granted by government for the purpose of burial of dead body of christian community. The plaintiff is the devotee of Our Lady of Mercy Church. Upon the knowledge, the plaintiff came to know that the suit schedule property is belonging to Church and defendant No.1 to 29 have erected illegal structure in the suit schedule property. Defendant No.12 has not maintain proper records of accounts of the Church. Thereafter Defendant No.12 was replaced by Defendant No.15. The plaintiff got issued the legal notice calling upon defendant No.1 to 12 and 16 to 29 to show the proper books of account. They have relied to notice by taking untenable contentions. Defendant No.1 to 15 have



permitted defendant No.16 to 29 to form Kokan Rakhan Sangha inside the church and they used to collect the revenue from the suit schedule property. Defendant no.1 to 15 colluded with defendant No.16 to 29 hired the tin structure in the suit schedule property illegally to defendant No.30 to 33 and collected the revenue without maintaining the records and misused the accounts of the church. The church belongs to public and the plaintiff being the devotee and member of the church, questioned the church activities and accounts. Hence, he constrained to file the present suit for the relief declaration and mandatory injunction.

3. Upon the service of summons, defendant No.1 to 3, 16, 18 20 to 32, 19 have appeared before the court through their respective counsel. Defendant No.12 and 16 have filed the written statement. Defendant No.12 has filed written statement by admitting the contents of the plaint and prayed to decree the



suit. Defendant No.16 has contended that the defendants have not erected any structures in the suit schedule property. They have also not rented out any structures nor generating revenue. The plaintiff at the instigation of others has filed the present suit. The land bearing Sy No.197, measuring 05 guntas originally belonging to government land and it was granted for the purpose of burial ground of christian community. The suit schedule property was not granted to Our Lady of Mercy Church at any point in time. The plaintiff has not produced any documents. The plaintiff is not the member of Our Lady of mercy Church. Hence, the present suit is not maintainable. The plaintiff has not stated anything as whether this suit is filed on individual capacity or representative capacity. There is no nexus between the defendants and members of Our Lady of Mercy church. Accordingly, prayed to dismiss the suit.



4. Based on the above pleadings, four issues have been framed. Out of which issue No.3 is considered as preliminary issue, which reads as under;

Issue No.3: Whether the suit is maintainable?

5. Heard submissions of both the counsel on Preliminary Issue. The learned counsel for the plaintiff has also filed the written arguments.

6. My answer to the aforesaid issues is as under :-

Issue No.3: In the *Affirmative* for the following:

REASONS

7. **Issue No.1** : The plaintiff has filed the present suit for the relief of declaration to declare that the suit schedule property is belonging to Our lady of Mercy Church, Sakaleshpura and consequential relief of mandatory injunction



to evacuate the temporary illegally erected structure in the suit schedule property. On the other hand, defendant no.16 has denied the said averments and contended that suit schedule property is not belonging to Our Lady of Mercy Church and there is no any construction in the suit schedule property. The plaintiff has also contended that he is the member and devotee of the church and raised the issue with respect to accounts of the church. Hence, by looking into the prayer and claims of the plaintiff, it is not with respect to administration of the church or association, but with respect to declaration of right over the suit schedule property and mandatory injunction. Hence, this court is of the opinion that the present suit would not fall under the ambit of issues with respect to administration, but with respect to declaration of legal rights. The issued raised by defendant No.16 is a matter of trial. Hence, the present suit for he relief of declaration and mandatory injunction is maintainable before this

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court. Accordingly, Issue No.3 is answered in the ***Affirmative***.

9. In view of the above findings on Issue No.3, this court proceeds to pass the following:

ORDER

**The suit of the plaintiff is
maintainable.**

[Dictated to the Stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 16th day of April, 2026]

[Lakshmi Narasimha R.V,]
C/c I Addl. Civil Judge and JMFC.,
Sakaleshpura.