



NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.5813 OF 2009

B. Muthukrishnan(Dead) by L.Rs.Appellant(s)

VERSUS

S.T. Reddiar Educational &
Charitable Trust & Ors. ...Respondent(s)

WITH

CIVIL APPEAL No.5814 OF 2009

J U D G M E N T

Abhay Manohar Sapre, J.

1. These appeals are directed against the order dated 20.08.2008 passed by the High Court of Kerala at Ernakulam in I.A. No.3280 of 2008 in R.F.A. No.474 of 2008 by which the Division Bench of the High Court modified the order dated 28.07.2008 in I.A. No.2907/88 granting stay and

the order dated 30.10.2008 in I.A. No.4422 of 2008 in R.F.A. No.474 of 2008 by which the High Court dismissed the application filed by the appellants herein for reconsidering the order dated 20.08.2008.

2. Keeping in view the nature of order that we are passing for disposal of these appeals, it is not necessary to set out the facts much less in detail.

3. The impugned order reads as under:

“The interim stay is modified. The judgment of the Courts below directing the framing of a scheme is in respect of the trust properties ‘A’ to ‘D’ including the temple(C Schedule). Though it is contended by the appellant that there is no mis-management as regards the properties are concerned, evidently, in the temple, at present no rituals, poojas etc. are conducted. In such circumstances, we vacate the stay with respect to any interim arrangements to be made for the revival of the temple poojas. The interim stay will continue only in respect of other properties. It is open to the respondents to move any application before the Courts below for such temporary arrangements.”

4. It is not in dispute that the impugned orders are interim in nature having been passed in pending Regular First Appeal filed by the defendants

(respondents herein) against the judgment and decree dated 11.03.2008 passed by the Trial Court in O.S. No.1 of 2003, which decreed the plaintiffs (appellants') suit. It is also not in dispute that the first appeal out of which these appeals arise in which the impugned orders were passed is still pending for its final disposal.

5. In a situation where the impugned orders are interim in nature and when the first appeal in which such impugned orders were passed is still pending for its final disposal in the High Court, it would be in the interest of all the parties to the appeal that the appeal itself be disposed of finally on merits.

6. So far as the legality of the impugned orders is concerned, suffice it to say, it being interim in nature, we do not consider it proper to interfere in such orders.

7. However, it will be open to the parties to approach the High Court to apply for further modification of the orders and depending upon a case, the High Court is free to pass appropriate order in accordance with law.

8. We request the High Court to expeditiously dispose of the appeal on merits preferably within six months from the date of this order.

9. With these observations and liberty, the appeals fail and are accordingly dismissed.

.....J.
[R. K. AGRAWAL]

.....J.
[ABHAY MANOHAR SAPRE]

New Delhi;
February 23, 2018