2025 INSC 717

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3821-3822 OF 2023

PRASANNATMA DAS ... APPELLANT(S)

versus

K.N. HARIDASAN NAMBIAR (DEAD) AND OTHERS ... RESPONDENT(S)

with

CIVIL APPEAL NO. 9313/2014
CIVIL APPEAL NOS. 9314-9315/2014
CIVIL APPEAL NOS. 9311-9312/2014
CIVIL APPEAL NOS. 9307-9308/2014
CIVIL APPEAL NOS. 9305-9306/2014
CIVIL APPEAL NOS. 9309-9310/2014
and
CIVIL APPEAL NO. 9316/2014

J U D G M E N T

ABHAY S. OKA, J.

FACTUAL ASPECTS

1. We are concerned in this group of cases (except Contempt Petition No.58 of 2012 and SLP (Crl.) No.8019-8021 of 2017) with two suits. The first is Suit No. 1758 of 2003, and the second is Suit No. 7934 of 2001. There are

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two Societies subject matter of the suits. The first is the International Society for Krishna Consciousness, which is registered under the Societies Registration Act, 1860 (hereinafter referred to as 'ISKCON Mumbai'). It is also registered as a public trust under the Maharashtra Public Trusts Act, 1950 (hereinafter referred to as the 'MPT Act'). It has a registered office in Juhu, Mumbai. The second Society is the International Society for Krishna Consciousness (hereinafter referred to as 'ISKCON Bangalore'). It is registered under the Karnataka Societies Registration Act, 1960 (hereinafter referred to as the 'Karnataka Societies Act'). It has its registered office in Bangalore. Apart from this, ISKCON Mumbai claims to have a branch in Bangalore.

SUIT NO. 1758 of 2003

2. This suit was filed by Amiya Vilas Swami and four other individuals as the first five plaintiffs. The said Amiya Vilas Swami claimed to be the disciple and son of His Divine Grace A.C. Bhaktivedanta Swami Prabhupada. The 6th plaintiff in this suit is ISKCON Bangalore. Shanka Brita Das and 16 others were defendants in the said suit.

3. In the Suit, the following reliefs were prayed for:-

a) a declaration that the 1st to 5th plaintiffs and 1st to 10th defendants constitute the Governing Body of the 6th plaintiff-ISKCON Bangalore,

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which was registered under the Karnataka Societies Registration Act;

b) a declaration that the 11th to 17th defendants have no right to manage or control the 6th plaintiff-ISKCON Bangalore;

c) a mandatory injunction enjoining the 11th to 17th defendants to make over to the governing body of the 6th plaintiff, comprising the 1st to 5th plaintiff and 1st to 10th defendants, all the assets, effects, affairs, books of account, and records of ISKCON Bangalore;

d) a perpetual injunction restraining the 11th to 17th defendants from interfering with the management and control of ISKCON Bangalore.

4. The learned judge of the City Civil Court, Bangalore, by his judgment and decree dated 17th April 2009, dismissed the suit. The learned Judge held that the plaintiffs have failed to prove that the 1st to 5th plaintiffs and the 1st to 10th defendants constitute the General Body of the ISKCON Bangalore. Similarly, it was held that the plaintiffs failed to prove that the 11th to 17th defendants have no right to manage or control ISKCON Bangalore. The Trial Court accepted the contention of the 11th to 17th defendants that in the general body meeting held on 1st

July 1984, the Governing Body was elected and that they were the part of the Governing Body.

5. Being aggrieved by the decree of dismissal of the suit, the original 4th and 6th plaintiffs had preferred an appeal before the High Court, being Regular First Appeal No.423 of 2009. Later on, the original 5th defendant, who had supported the plaintiffs, was transposed as the appellant. By the impugned judgment, the High Court dismissed the appeal. Civil Appeal Nos.3821-3822 of 2023 have been preferred by the original 5th defendant.

SUIT NO. 7934 of 2001

6. This suit was filed by ISKCON Bangalore, with ISKCON Mumbai as the first defendant. In the suit, the following reliefs were prayed for:-

a. a declaration that ISKCON Bangalore was the absolute owner of the immovable properties described in Schedule 'A' and movable properties in Schedules 'B' and 'C';

b. a declaration that the executive committee or Bureau of the ISKCON Mumbai has no power or authority to remove the President or any office bearers of the plaintiff Society (ISKCON Bangalore), and its temples or to exercise control over the possession of the property of the

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plaintiff Society or administration of affairs of ISKCON Bangalore;

c. There were consequential prayers made for injunction.

7. In this suit, a counter-claim was filed by the first defendant (ISKCON Mumbai) for claiming that properties in Schedules 'A', 'B' and 'C' were of ISKCON Mumbai. The suit was decreed, and the counter-claim was dismissed. It was held that ISKCON Bangalore (plaintiff) was the absolute owner of properties mentioned in Schedules 'A', 'B', and 'C'. It was also declared that ISKCON Mumbai or its Executive Committee or Bureau has no power or authority to remove the President or office bearers of the ISKCON Bangalore and its temples or to exercise control over the possession of the property mentioned in Schedules 'A' 'B', and 'C'. Consequential relief of injunction was granted by the learned Judge of the City Civil Court.

8. Being aggrieved by the judgment of the Trial Court, the 1st to 4th defendants preferred Regular First Appeal No.421 of 2009. By the impugned judgment and order dated 23rd May 2011, the appeal was allowed by setting aside the decree passed by the Trial Court. The counter-claim made by ISKCON Mumbai was allowed by granting a decree restraining ISKCON Bangalore or its office

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bearers or any persons claiming on their behalf from interfering with the possession and enjoyment of Schedule 'A' ', B', and 'C' properties of the Bangalore Branch of ISKCON Mumbai. Civil Appeal No.9313 of 2014 has been preferred by the original plaintiff (ISKCON Bangalore), being aggrieved by the Judgment of the High Court.

9. We find from the order sheets that, by the order dated 6th June 2011 in Civil Appeal No.9313 of 2014, the day-to-day management of the temple on the Schedule 'A' property of the ISKCON Bangalore was protected, subject to the condition that it would not take any major decisions. Under the order dated 14th December 2011, this Court appointed a committee headed by Hon'ble Mr. Justice R.V. Raveendran (retired) to oversee the management of the temple and its properties by ISKCON Bangalore. Paragraph 7 of the said order reads thus:

> "7. In the meantime, in addition to the interim directions, which had been given in the order of 6th June 2011, we appoint a Committee to oversee the management of the temple and its properties. The said Committee shall consist of :-
>
> 1. Hon'ble Mr.Justice R.V. Raveendran (retd.) as Chairman.
> 2. Shri Ananda Thirtha Das, Member.

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> 3. Shri Stoka Krishna Das, Member.
>
> The said Committee shall oversee the management of the temple and its properties by the petitioner-society and shall be entitled to advise the said society on matters relating to the management of the temple and its properties."

10. Civil Appeal Nos. 9314-15 of 2014 have been preferred against the order dated 29th October 2010, passed in Regular First Appeal No. 421 of 2009, by which the issues in the suit were recast. Civil Appeal Nos.9311-9312 of 2014, Civil Appeal Nos.9307-9308 of 2014, and Civil Appeal Nos.9309-9310 of 2014 have been preferred by certain parties against the order declining to expunge adverse remarks against them in the Judgment in Regular First Appeal No.421 of 2009. Civil Appeal No.9316 of 2014 has been filed by a third party to challenge the decree passed in Regular First Appeal No.421 of 2009.

SUBMISSIONS

CIVIL APPEAL NO.3821-3822 OF 2023 (ARISING OUT OF SUIT NO. 1758 OF 2003)

Submissions of the Appellant

11. His submission is that the learned Single Judge of the Karnataka High Court has merely reproduced the findings recorded by the Trial Court without appreciating the evidence as required by a decision of this Court in the case of ***K. Karuppuraj v. M. Ganesan***[1]. Some of the full-time devotees of the Hyderabad branch of ISKCON started the activities of the Bangalore branch of ISKCON Mumbai in 1975-1976. The Memorandum of Association and Rules and Regulations of ISKCON Bangalore disclose the names of the 1st to 5th plaintiffs and the 1st to 10th defendants in Suit No. 1758/2003. Learned counsel pointed out that the 11th to 17th defendants admitted the said Memorandum of Association and Rules and Regulations of ISKCON Bangalore. According to the appellant, ISKCON Bangalore became defunct, and no activity was carried out by it. In July 1984, one Madhu Pandit Dasa (Madhu Pandit), the 11th defendant, who was president of the Trivandrum branch of ISKCON, was sent to the Bangalore branch of ISKCON Mumbai as the branch President. One Chanchalpati Das, 12th defendant, who is a brother-in-law of Madhu Pandit, was sent as the Vice-Chairman of the Bangalore branch.

1 (2021) 10 SCC 777

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12. Learned counsel submitted that the terms 'Managing Committee' and 'Governing Body' are used interchangeably, and therefore, the prayer in the Suit No.1758 of 2003 was for a declaration that the 1st to 5th plaintiffs and 1st to 10th defendants were members of the Managing Committee. They have been shown as members of the Managing Committee in the Memorandum of Association of ISKCON Bangalore. This fact is admitted. The 11th to 17th defendants were never inducted as members of the ISKCON Bangalore, and therefore, they were not the members of the Governing Body. There is no evidence produced on record to show that the 11th to 17th defendants were elected as members of the Governing Body or Managing Committee. He submitted that, except for a letter dated 15th June 1984 addressed by the 1st defendant stating that he admitted Madhu Pandit and others as the members of ISKCON Bangalore, there is no other evidence in the form of minutes or resolutions admitting the 11th to 17th defendants as members. In fact, the stand taken by the 1st defendant is that they were never admitted as members of the Governing Body. The learned counsel submitted that a person must be a member of the Society to be eligible for election to the Governing Body. The 11th to 17th defendants had not established that they had been admitted as members. He

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pointed out that the minutes of the Annual General Meeting held on 1st July 1984, relied upon by the 11th to 17th defendants, show several discrepancies. By pointing out several discrepancies, he highlighted that there are manipulations in the document.

13. Learned counsel submitted that the 11th to 17th defendants tried to rely upon minutes of the Annual General Meeting held on 1st July 1979. The minutes were belatedly produced on 24th September 2008, eight months after the evidence was recorded. It is contended that the alleged minutes of the meeting dated 1st July 1979 were fabricated by Madhu Pandit and Chanchalpati Das. He pointed out several discrepancies in the said minutes. He pointed out that the 1st defendant had taken the stand that the notice dated 25th May 1984 was not sent, and no meeting was held on 1st July 1984. However, inconsistent with the stand taken in the written statement, the 1st defendant admitted the minutes of the alleged Annual General Meeting held on 1st July 1984.

14. He pointed out that Madhu Pandit, in his written statement, stated that the Memorandum of Association and Rules and Regulations of ISKCON Bangalore are riddled with inconsistencies, and no reliance can be placed upon them. Only at the stage of final arguments before this Court, the 11th to 17th defendants admitted the

Memorandum of Association and Rules and Regulations of ISKCON Bangalore.

15. For proving the alleged minutes of the meeting of the Annual General Meeting of 1st July 1984, the 11th to 17th defendants have relied upon only the reply to the interrogatories by the 1st defendant. Although the 1st defendant accepted his signature on the minutes of the Annual General Meeting held on 1st July 1984, in his written statement, he denied that any such meeting had been held.

16. Learned counsel pointed out that Regular First Appeal No.421 of 2009 arising out of Suit No.7934 of 2001 was decided by the High Court on 23rd May 2011. The said Appeal was decided by a Division Bench. The High Court held that the Bangalore branch of ISKCON Mumbai had been functioning in Bangalore all along and that ISKCON Bangalore had never functioned after it was registered. The Division Bench found that ISKCON Mumbai was the owner of the property subject matter of Suit No. 7934 of 2001, and Madhu Pandit had functioned as the President of the Bangalore branch. He pointed out the finding recorded in RFA No.421 of 2009 by the Division Bench holding that ISKCON Bangalore did not function. The Division Bench held that ISKCON Mumbai had a branch in Bangalore, and in fact, the branch was

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operational. His submission is that while deciding RFA No.423 of 2009, which is the subject matter of challenge in this civil appeal, the learned Single Judge ought to have adverted to the findings recorded in RFA No.421 of 2009.

17. Learned counsel submitted that Madhu Pandit admitted in his deposition recorded in 1986 in Original Suit No.4165 of 1984 that he was functioning as the President of the Bangalore branch of ISKCON Mumbai, which had acquired the land for the Bangalore temple and constructed a temple thereon. He also pointed out the finding that the temple in Bangalore has been constructed on land allotted by the Bangalore Development Authority (hereafter referred to as the BDA) to the Bangalore branch of ISKCON Mumbai. He submitted that the 11th to 17th defendants have no right to manage or control ISKCON Bangalore.

Submissions of 9th to 12th Respondents

18. Learned counsel appearing for 9th to 12th Respondents (11th to 14th defendants in Suit no.1758 of 2003) pointed out that the appeal at the instance of the present appellant (5th defendant) cannot be entertained as the appellant had not even filed his written statement. He pointed out that initially, RFA No.423 of 2009 was filed by the 4th plaintiff. When the original 4th plaintiff sought to

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withdraw the appeal, the present appellant (5th defendant) transposed himself. He pointed out that there were originally six plaintiffs, including ISKCON Bangalore. He submitted that three out of the original six plaintiffs withdrew from the suit, and plaintiff no.4, who preferred RFA No.423 of 2009, withdrew from the appeal. The learned counsel, therefore, submitted that merely because transposition of the present appellant was allowed, he does not get a locus to prosecute the appeal. Learned counsel submitted that the appellant lacks *bona fide.*

19. He pointed out that ISKCON Mumbai was the first ISKCON entity in India, founded by His Divine Grace A.C. Bhaktivedanta Swami Prabhupada. Learned counsel pointed out the issues framed and findings recorded by the Trial Court and High Court. He submitted that, on the one hand, it is as asserted by the original plaintiffs that ISKCON Bangalore had no account, no assets, and was defunct; however, a prayer was still made for a mandatory injunction, stating that its Governing Body comprises of the 1st to 5th plaintiffs and the 1st to 10th defendants. He submitted that the plaintiffs themselves have asserted that after registration of the society, no general meeting was held and no election was held. Therefore, the 1st to 5th plaintiffs and 1st to 10th

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defendants could not have been members of the Governing Body.

20. Learned counsel referred to documentary evidence on record in the form of a letter dated 6th September 1996 issued by the 3rd plaintiff to the 6th plaintiff. Learned counsel pointed out that even the 2nd witness examined by the plaintiffs produced a certified copy of the extract of the register of the Societies maintained by the Registrar of Societies, in which there was an entry to the effect that accounts and a list of the members of the management as on 31st March 1987 was filed on 24th September 1987. It is submitted that the documents produced by the plaintiffs themselves demolish the theory that the 1st to 5th plaintiffs and the 1st to 10th defendants constituted the Governing Body. He submitted that the 1st defendant, after supporting the stand taken by the plaintiffs in the written statement, was not examined as a witness. Therefore, when other contesting defendants served interrogatories upon the 1st defendant, he admitted his signatures on the proceedings of 1979 as well as the 1984 meeting. He submitted that there is no prayer made for challenging the validity of the minutes of the 1st July 1984 meeting. He submitted that the suit was barred by limitation as the right to sue accrued for the first time in 1987. He placed emphasis on the legal effect of the failure

to examine Madhu Pandit. He submitted that the whole litigation is at the instance of the ISKCON Mumbai.

21. Learned counsel appearing on behalf of the 9th respondent (11th defendant, Madhu Pandit) submitted that Suit No. 1758 of 2003 is infructuous, as a significant number of persons who were allegedly members of the Governing Body are no longer alive. It was submitted that the resolution of 1st July 1984 cannot be challenged by filing Suit No. 1758 of 2023. Learned counsel accepted that respondent no.9 has not filed a written statement.

CIVIL APPEAL NO. 9313 OF 2014

Submissions of the Appellant

22. Our attention was invited to pleadings. The issue revolves around the question of whether the BDA allotted property in Schedule 'A' to ISKCON Mumbai through its Bangalore branch. He pointed out the application dated February 5, 1987, made by ISKCON Bangalore to the BDA. In fact, on 3rd August 1988, BDA executed a registered sale deed in favour of ISKCON Bangalore. There are clear recitals in the sale deed stating that ISKCON Bangalore applied for the allotment of the plot. He submitted that from recitals in the sale deed, it is clear that the allotment was in favour of ISKCON Bangalore. He pointed out that Madhu Pandit had applied for allotment. He drew our attention to various documents on record.

He submitted that the execution of the sale deed has not been explicitly denied. He pointed out several documents, such as correspondence between BDA and the appellant. It is pointed out that the exemption order was granted to the plaintiff – ISKCON Bangalore under the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the ULC Act').

23. Thereafter, he invited our attention to various documents placed on record. Learned counsel pointed out that under Section 38B (v) of the Bangalore Development Authority Act, 1976 (for short 'the BDA Act') allotment of bulk land can be made only to a Society registered under the Karnataka Societies Registration Act. Therefore, ISKCON Mumbai, which was not registered under the Karnataka Societies Registration Act, was not eligible for allotment. He pointed out that the first application for allotment, dated 5th February 1987, was made by ISKCON Bangalore, which stated that it was registered under the Karnataka Societies Registration Act. The follow-up application in the Kannada language of 1st August 1987 was also on behalf of ISKCON Bangalore. These two applications were marked as exhibits without any objection from the defendants. Learned counsel pointed out that the 1st defendant in the suit alleged that the seal of ISKCON Bangalore was

affixed on the application dated 5th February 1987 to make it look like ISKCON Bangalore's application. Apart from relying on the recitals in the sale deed dated 3rd August 1988, executed by BDA, the learned counsel submitted that Madhu Pandit signed and submitted the allotment application. It was submitted that the President of the ISKCON Bangalore for the year 1987-1988 was Madhu Pandit. He submitted that a branch of ISKCON Mumbai is not a legal entity, and therefore, it was ineligible to receive allotment from BDA. Learned counsel pointed out that the plot was allotted to ISKCON Bangalore by the BDA on 23rd September 1987. Therefore, the High Court ought not to have relied upon the letter dated 28th November 1987 (D81) for recording a finding that bulk land from BDA was secured by the branch of ISKCON Mumbai by Madhu Pandit by using the Memorandum of Association of ISKCON Bangalore.

24. Learned counsel submitted that the execution of the sale deed by BDA was not denied in the written statement. As the execution was not denied or disputed, it was not necessary to examine any witness to prove the same as held by this Court in the case of ***Muddasani Venkata Narsaiah v. Muddasani Sarojana***[2]. Learned counsel submitted that the title of the Schedule 'A'

2 (2016) 12 SCC 288

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property, by virtue of the sale deed, passed on to ISKCON Bangalore. Even the telephone number mentioned on the allotment application dated 5th February 1987 belongs to ISKCON Bangalore. Even the address in the sale deed is that of ISKCON Bangalore. There are several documents that show the purchaser/allottee was ISKCON Bangalore. Even the exemption granted under the provisions of the ULC Act was in favour of the plaintiff - ISKCON Bangalore. Moreover, payments made to the BDA have been recorded in the books of account of ISKCON Bangalore of the year 1987-1988. ISKCON Bangalore had bank accounts in Vysya Bank and Indian Overseas Bank. In the audit of the plaintiffs' financial statements, Schedule 'A' property is shown as a fixed asset of ISKCON Bangalore. Moreover, the funds of ISKCON Bangalore have been spent on the construction of the temple. He pointed out that Schedule 'A' property was not registered as required by Section 22B of the MPT Act. He pointed out that the appellant had filed statutory accounts with the Registrar of Societies under the Karnataka Societies Registration Act on 24th September 1987. Learned counsel explained why the plaintiff, ISKCON Bangalore, consolidated its accounts with ISKCON Mumbai until the year 2000. It was submitted that since ISKCON Bangalore was a member of ISKCON Mumbai, there was no need to

file separate income tax returns till 2000. He pointed out the finding of the High Court that, despite having registered under Section 12A of the Income Tax Act, 1961, ISKCON Bangalore, never availed the benefits under Section 12A. In fact, till the year 2000, the certificate of exemption under Section 80G of the Income Tax Act, 1961, issued to the 1st defendant (ISKCON Mumbai) was allowed to be used by all ISKCON centres. Learned counsel pointed out that various donations were mobilised by the plaintiff, locally and from abroad. Some of the donors took advantage of the Section 80G certificate of ISKCON, Mumbai. But it does not make Schedule 'A' property the property of ISKCON Mumbai. In any case, the source of funds for acquiring property does not decide the title to the property. He pointed out sources of funds which were available to the plaintiff society at the relevant time. Inviting our attention to the evidence on record, he submitted that there was no evidence to show that the Bangalore branch of ISKCON Mumbai existed in Bangalore.

25. On the allegation of fraud made by the 1st defendant, the learned counsel submitted that fraud must always be specifically pleaded with material facts constituting the alleged fraud. In this case, there was no specific pleading on that behalf. It is submitted that the allegation of fraud

made by the 1st defendant (ISKCON Mumbai) was purely speculative, and there was no evidence in support of the plea of fraud. Learned counsel also dealt with allegations of tampering with BDA files made by the 1st defendant.

26. Learned counsel submitted that the admissions of Madhu Pandit were irrelevant. He submitted that the non-examination of Madhu Pandit is not fatal. He submitted that the plaintiff had submitted sufficient documents. He submitted that the plaintiff, ISKCON Bangalore, was never defunct and was fully functional. He pointed out several documents on that behalf. He pointed out that these documents were marked as exhibits without any objection from the 1st defendant-ISKCON Mumbai.

27. He submitted that Madhu Pandit was elected as the President of ISKCON Bangalore on July 1, 1984. He pointed out the findings recorded by the High Court in RFA No.421 of 2009 in that behalf. Hence, the finding that Schedule 'A' property is owned by ISKCON Mumbai through its Bangalore branch is erroneous.

Submissions of the 1st Respondent

28. Learned senior counsel appearing for the 1st defendant -ISKCON Mumbai submitted that ISKCON Bangalore, registered under the Karnataka Societies

Registration Act, was always a defunct society. He pointed out that four out of seven members of the Governing Body of ISKCON Bangalore consisted of Madhu Pandit, his wife, his wife's sister and his wife's sister's husband (Chanchalapati Dasa, the Vice-President). The other three were the close friends of Madhu Pandit. He submitted that ISKCON Bangalore is the real alter ego of Madhu Pandit. He pointed out that 82 out of 110 documents produced by ISKCON Bangalore are authored or signed by Madhu Pandit. He submitted that he and his family members have exploited the name of ISKCON of both Mumbai and Bangalore.

29. He pointed out three earlier suits filed by Madhu Pandit in which the certificate of registration, the Memorandum of Association and the Rules and Regulations of ISKCON Mumbai were relied upon. He pointed out the depositions of Madhu Pandit in the earlier suits (OS No. 2180 of 1999, OS No. 4467 of 2000, and OS No. 1483 of 2001). He submitted that Madhu Pandit admitted that the temple at Bangalore is a branch of ISKCON Mumbai. He also pointed out that accounts of ISKCON Bangalore were sent every year to ISKCON Mumbai for consolidation.

30. He submitted that an adverse inference must be drawn against the plaintiff, ISKCON Bangalore, on

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account of the failure of Madhu Pandit to enter the witness box. In fact, his name was included in the list of witnesses. Therefore, the Division Bench in the impugned judgment rightly held that an adverse inference must be drawn against the plaintiff for his non-examination. He submitted that, in fact, during the course of the hearing, while answering a query made by the Court, the counsel appearing for the appellant accepted that Madhu Pandit did not appear in the witness box in view of averments made by him in his three previous suits. Relying upon various documents on record and circumstances, he submitted that ISKCON Bangalore never actually functioned. He pointed out the admission by Shanka Brita Das, the founder of ISKCON Bangalore, in his written statement in Suit No.1758 of 2003. He pointed out that there is no evidence to show that Madhu Pandit and Stoka Krishna Dasa were admitted as members in any General Body meeting. He pointed out that, until 1988, no reports had been filed with the Office of the Registrar of Societies. In fact, from the date of registration until 2002, ISKCON Bangalore had not filed income tax returns. Even, telephone bills were not produced to show that the telephone was functioning. The certificate issued under Section 12A of the Income Tax Act to ISKCON Bangalore was never used.

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31. The learned senior counsel submitted that as rightly found by the High Court, a branch of ISKCON Mumbai existed and functioned at Bangalore. In fact, Madhu Pandit had sent audited accounts of the Bangalore branch to ISKCON Mumbai. He pointed out that the audited accounts of the Bangalore branch from 1982 to 2000 were sent to ISKCON Mumbai, which are reflected in the income tax returns of ISKCON Mumbai. A certificate under Section 80 G of the Income Tax Act, issued to ISKCON Mumbai, was used by the Bangalore branch to raise funds. He pointed out admissions of Madhu Pandit in the earlier five proceedings wherein he admitted the existence of the Bangalore branch of ISKCON Mumbai. He pointed out the inconsistent stand taken by the plaintiff on the existence of the Bangalore branch of ISKCON Mumbai.

32. Learned senior counsel pointed out that the documents pertaining to the functioning of the Bangalore branch were in the custody of Madhu Pandit and his associates. He pointed out that almost all documents were produced belatedly in 2008, along with the depositions of PW-1, which had been manipulated. He pointed out several instances of manipulation by Madhu Pandit. He submitted that on the application for allotment of land made to the BDA, a round rubber seal

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of ISKCON Bangalore was affixed by making interpolation and insertion. He pointed out that in the sale deed dated 3rd August 1988 and possession certificate issued by the BDA signed by Madhu Pandit, neither the word Karnataka nor the registration number of the Bangalore society nor the round rubber seal of the Bangalore society appear, and in fact, the name of only ISKCON appears. The address of the purchaser is shown as 210, Bellary Road, which is the address of the Bangalore branch. He referred to a letter dated 10th March 1987 addressed by Indu Bai C. Patel to Ramkrishna Hegde, the then Chief Minister of Karnataka, enclosing the letter written by Madhu Pandit seeking allotment of the land. It does not refer to ISKCON, Bangalore. He pointed out that funds for the land, as well as construction, were admittedly collected by using Section 80-G certificate of ISKCON Mumbai, which were accounted for in ISKCON Mumbai's income tax returns. Pursuant to a query made by this Court during the final hearing to show that payment has been made by the Bangalore society, only a ledger account showing payment of cash was relied upon, and the High Court had already discarded the ledger. Learned counsel pointed out that the title documents, including the possession certificate, were manipulated. He submitted that the application dated 5th February

1987 is forged and fabricated. Moreover, Madhu Pandit did not step into the witness box to prove it. He also submitted that the BDA note sheets, as produced on record, show that they have been manipulated. He submitted that merely because Schedule 'A' property is not registered under the provisions of the MPT Act as the property of ISKCON Mumbai its title is not taken away. He submitted that under clause (vi) of Section 38B of the BDA Act, bulk allotment could also be made to a Trust formed only for charitable, educational and religious purposes. ISKCON Mumbai was registered as a charitable Trust under the MPT Act. Learned counsel pointed out that there is no reason to disturb findings of fact recorded by the High Court. He submitted that now the Bangalore temple is under the management of the Oversight Committee appointed by this Court. He pointed out that Hon'ble Mr. Justice R.V. Raveendaran, a retired Judge of this Court, has stopped taking any remuneration since the year 2020, and the number of meetings of the Oversight Committee have been reduced to three to four in a year. He would, therefore, submit that no interference is called for.

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CONSIDERATION OF SUBMISSIONS (IN CIVIL APPEAL NO.9313 OF 2014)

33. One of the main issues that arises for consideration is whether the property mentioned in Schedule 'A' of Suit No. 7934 of 2001 was allotted by the BDA to ISKCON Mumbai through its branch in Bangalore or to ISKCON Bangalore. Schedule 'A' property is a land bearing Survey Nos. 174 and 175 in Stage II, Rajajinagar Extension, Bangalore, admeasuring 6 acres 8 guntas.

34. There is no dispute that the plaintiff-ISKCON Bangalore is a society registered under the Karnataka Societies Registration Act. It was registered in the year 1978. In the plaint, the averments regarding the acquisition of Schedule 'A' property have been made. It is alleged in the plaint that an application was made for the allotment of Schedule 'A' property on behalf of ISKCON Bangalore and that ISKCON Bangalore is the owner of Schedule 'A' property. In the written statement filed by ISKCON Mumbai, it was contended that there was a Bangalore branch of ISKCON Mumbai, with Madhu Pandit serving as its Chairman. Reliance was placed on suits bearing O.S. Nos. 2180 of 1999 and 1483 of 2001, filed by Madhu Pandit, who claimed to be the President of the Bangalore Branch of ISKCON Mumbai. It is alleged that the Bangalore branch was responsible for collecting

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donations by utilising exemptions under Section 80 G of the Income Tax Act granted to ISKCON Mumbai. Apart from denying the averments made in the plaint, a specific contention was raised that Schedule 'A' property was acquired by ISKCON Mumbai through its Bangalore branch.

35. The Trial Court framed seven issues, which read thus:

> "1. Whether the plaintiff proves that the 1st defendant has no power or authority to exercise control over the possession of the property by the plaintiff?
>
> 2. Whether the plaintiff proves that it is the absolute owner in possession of the 1st item of 'A' schedule and 'B' & 'C' schedule properties?
>
> 2A. whether the additional written statement filed by the defendants beyond the amendment carried out to the plaint is liable to be rejected?
>
> 2B. Whether the defendants prove that the 1st defendant acquired the schedule properties out of the funds of its branch of Bangalore and the said branch is in possession of them?
>
> 2C. Whether the counter-claim is maintainable on the face of OS.No.1758/2003?
>
> 3. Whether the plaintiff is entitled to declarations sought for?

> 4. Whether the plaintiff is entitled to the permanent injunction sought for?
>
> 5. Whether the plaintiff is entitled to mandatory injunction sought for?
>
> 6. Whether the valuation of the suit is proper and the court fee paid thereon is correct and adequate? 6A. whether the 1st defendant is entitled to permanent injunction sought for in its counter claim?
>
> 7. To what order or decree?

36. After the appeal was heard, the High Court proceeded to recast the issues by the order dated 29th October 2010 by consent of the parties and directed that the same would be treated as points for consideration in the appeal in accordance with Rule 31 of Order XLI of the Code of Civil Procedure (the CPC). The recast issues read thus:

> "1. Whether the plaintiff proves that after its registration in 1978 it continued to function or became defunct as contended by the defendants?
>
> 2. Whether defendants prove that they are having a branch at Bangalore by name ISKCON Bangalore?
>
> 3. Whether Madhu Pandit Das functioned as President of plaintiff society or of ISKCON Bangalore?

> 4. Whether plaintiff proves that they are the owners in possession of plaint schedule property?
>
> 5. Whether the defendants prove that they are the owners in possession of plaint schedule properties through their branch, ISKCON Bangalore?
>
> 6. Whether the defendants prove that plaintiff society, by taking advantage of 1st defendant's branch name ISKCON Bangalore is claiming illegally and fraudulently the schedule property as its property?
>
> 7. Whether the plaintiff is entitled to a decree of declaration of title and injunction?
>
> 8. Whether the defendants are entitled to a decree of permanent injunction as claimed in their counter claim?
>
> 9. What order or Decree?"

37. The most important issue in both sets of issues is whether ISKCON Mumbai acquired Schedule 'A' property through its branch in Bangalore, or ISKCON Bangalore acquired it. The Trial Court decreed the suit. In a very lengthy judgment written by the Trial Court, it was held that the plaintiff-ISKCON Bangalore, was the absolute owner of the scheduled properties. Consequently, the injunction, as prayed, was granted.

38. There is no dispute that the plaintiff - ISKCON Bangalore was registered in the year 1978 under the Karnataka Societies Registration Act. At this stage, we must note that Suit No.1758 of 2003 was filed in which ISKCON Bangalore was the 6th plaintiff. In the said suit, specific averments have been made in paragraph 11 that within a few months of its registration, ISKCON Bangalore stopped functioning.

39. On this aspect, it must be noted here that the plaintiff-ISKCON Bangalore, for the first time after its registration, by a letter dated 20th June 1989, informed the Registrar of the Societies, Bangalore, of the names of the members of the governing body for the year 1987-88. Moreover, the High Court, as a finding of fact, held that the plaintiff - ISKCON Bangalore did not file the return of income with the Income Tax Department and that the returns were filed for the first time in March 2002 for the assessment year 2000-01. This was done during the pendency of the suit. The High Court has held that ISKCON Bangalore was having a certificate under Section 12A of the Income Tax Act. There is nothing placed on record to show that from 1988, when the certificate was granted, till 2001, the certificate was used by ISKCON Bangalore. The High Court has commented upon the evidence of PW-1 who claimed that ISKCON Bangalore

had opened accounts with Vijaya Bank, Bank of Baroda, Indian Bank etc. However, the pass books of accounts were not produced. Therefore, the High Court has concluded that at least till 1988-89, the society was defunct.

40. The High Court has recorded a finding that Madhu Pandit, in the earlier suits filed, which are mentioned in paragraph 39 of the judgment, had categorically admitted the existence of a branch of ISKCON Mumbai at Delhi. As far as the existence of the Bangalore branch of ISKCON Mumbai is concerned, the High Court has referred to a Resolution dated 9th February 1990 passed by ISKCON Bangalore. A copy of the resolution is at Exh.P.205. It reads thus:

> "We record our gratitude to the Bombay society for handing over the state of affairs of Bangalore branch of Bombay to our society conveyed through and again by his holiness Jai Pataka Swamy formed on behalf of the bureau. I like to acknowledge with gratitude that the donors and the devotees at Bangalore have aided the development of the Centre into autonomous centre. Thus, the procurement of its own land last year has opened a new chapter for ISKCON movement in Karnataka"
>
> (underline supplied)

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Therefore, even the plaintiff-ISKCON Bangalore accepted that there was a branch of ISKCON Mumbai in Bangalore. However, it also records that the affairs of the Bangalore branch were handed over to ISKCON Bangalore. The last sentence indicates that ISKCON Bangalore acquired Schedule 'A' property.

41. Now, we come to the acquisition of Schedule 'A' property. In the plaint, paragraph 3 contains a specific averment regarding the acquisition of Schedule 'A' property by ISKCON Bangalore. The specific pleading is that, by a deed of conveyance dated 3rd August 1988, the BDA conveyed the Schedule 'A' property to ISKCON Bangalore, which was duly registered. In the plaint, reliance is specifically placed on the order dated 27th May 1989 by the Additional Special Deputy Commissioner, Urban Land Ceiling, Bangalore. By the order dated 27th May 1989, the Additional Special Deputy Commissioner, Urban Land Ceiling, Bangalore accepted the declaration filed by ISKCON Bangalore under the ULC Act in respect of Schedule 'A' property.

42. In the written statement filed by ISKCON Mumbai, while dealing with paragraph 3 of the plaint, it is alleged that BDA allotted Schedule 'A' property to ISKCON Mumbai through its Bangalore branch. It is claimed that the acquisition was made possible through donations

acquired by ISKCON Mumbai, which utilised its certificate of exemption under Section 80 G of the Income Tax Act. It is contended that the alleged exemption under the ULC Act will not determine the title of the property.

43. ISKCON Mumbai filed an additional written statement for incorporating a counter-claim. It is pleaded in the additional written statement that ISKCON Bangalore is a fiction created by the said Madhu Pandit. It is also claimed that Madhu Pandit was the President of the Bangalore branch of ISKCON Mumbai. As stated earlier, by counter-claim, it was claimed that scheduled properties were acquired by ISKCON Mumbai through its Bangalore branch.

44. The plaintiff examined three witnesses, Jai Chaitanya Dasa, K.N. Haridasan Nambiar and M.R. Ramakrishna. Evidence of PW-1 Jai Chaitanya Dasa is very relevant. He claimed that the application for allotment of Schedule 'A' land was made by the then President of ISKCON Bangalore, Sh.Madhu Pandit, on 5th February 1987. He stated that according to the decision of the BDA to allot Schedule 'A' property, on 31st May 1988, a demand was raised by BDA for payment of Rs.7,75,000/- towards the value of the land. He claimed that the cash amount was utilised to purchase pay orders amounting to Rs. 2,75,000/-. He stated that a cash

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amount of Rs. 5,00,000/- was deposited in the Canara Bank account of the BDA. Therefore, the entire consideration for Schedule 'A' property was paid by cash. The payments of Rs.2,75,000/- and Rs. 5,00,000/- are evidenced by challans issued by the BDA at exhibits P55 and P56, respectively.

45. We may note here that the letter dated 5th February 1987 was marked as Exh.P-51 in the deposition of PW-1 without any objection. In the cross-examination made by the advocate for ISKCON Mumbai, the witness stated that Madhu Pandit, as the President of ISKCON Bangalore, had made the application for allotment of Schedule 'A' property. Even the second witness, examined by ISKCON Bangalore, K.N. Haridasan Nambiar, stated in his examination-in-chief that Madhu Pandit had made an application to the BDA for the allotment of a site.

46. One Dayaram Dasa was examined as the first witness on behalf of ISKCON Mumbai. The stand taken in the examination-in-chief is very peculiar. It is stated that the then Chief Minister of Karnataka, Shri Ramakrishna Hegde, visited the ISKCON temple at Juhu of ISKCON Mumbai. During the visit, Shri Hegde assured that a sufficiently large plot of land would be allotted in Bangalore. It is further stated that the then Members of the Bureau supervising the Mumbai branch

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of ISKCON Mumbai instructed Madhu Pandit to apply in the name of the first defendant (ISKCON Mumbai) seeking allotment of a land. It is alleged that Madhu Pandit was the President of the Bangalore branch of ISKCON Mumbai at the time, and in his capacity, he made an application to the BDA. He never acted on behalf of the ISKCON Bangalore. In the examination-in-chief, the witness further stated that one Stoka Krishna Dasa, the alleged Secretary of ISKCON Bangalore, informed him that at the instance of Sh.Madhu Pandit, the documents with the BDA had been manipulated, and therefore, ISKCON Mumbai could never get its temple and properties in Bangalore. We may note here that ISKCON Mumbai did not examine the said Stoka Krishna Dasa as a witness. As Stoka Krishna Dasa had the knowledge of alleged manipulations, ISKCON Mumbai ought to have examined him as a witness. Therefore, an adverse inference will have to be drawn against ISKCON Mumbai, due to its failure to examine the material witness.

47. The first witness examined by ISKCON Mumbai was cross-examined by the advocate for ISKCON Bangalore. During the cross-examination, the witness stated that the application to BDA for the allotment of land was made by ISKCON Mumbai, and all correspondence was handled by ISKCON Mumbai. He stated that the

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President of the Bangalore branch, Madhu Pandit, had signed the application made to the BDA. Importantly, the witness admitted that ISKCON Mumbai has registered some properties with the Charity Commissioner. However, the property in Bangalore (Schedule 'A' property) was not registered with the Charity Commissioner.

48. We have perused the application dated 5th February 1987 at Exh.P-51. It is crystal clear that the application was made by ISKCON Bangalore, as in the first paragraph itself, it is claimed that the applicant, International Society for Krishna Consciousness, has been registered under the Karnataka Societies Registration Act, and its registration number (49/78-79) is also mentioned. The application also mentions the activities of ISKCON Bangalore. A copy of the certificate of registration under the Karnataka Societies Registration Act of ISKCON Bangalore was enclosed along with the application, along with a copy of the Memorandum of Association of ISKCON Bangalore. The application is signed by Madhu Pandit. Upon a plain reading of the application and the accompanying documents, it appears that the same was submitted by ISKCON Bangalore, a registered society under the Karnataka Societies Registration Act. There is nothing on record to show that

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the application (Exh.P-51) was manipulated or fabricated. That is not the case of ISKCON Mumbai. There is no indication in the application that it was signed by Madhu Pandit in his capacity as the President of the Bangalore branch of ISKCON Mumbai. Though in the evidence, a case was made out by ISKCON Mumbai that Madhu Pandit was authorised to apply for allotment on behalf of ISKCON Mumbai in his capacity as the Chairman of the Bangalore branch of ISKCON Mumbai, there is no document produced on record showing authorisation given to Madhu Pandit. Exh.P-53 is a letter dated 1st August 1987 addressed to the Chairman of the BDA by the International Society for Krishna Consciousness, signed by the President of ISKCON Bangalore. The subject of the letter is the allotment of Schedule A land. In the first paragraph of the letter, it is stated that the applicant Society was registered in Karnataka. There is no allegation of manipulation or fabrication of this letter. By letter at Exh.P-54, the Commissioner of BDA called upon ISKCON Bangalore to deposit a sum of Rs. 7,75,000/-. The letter at Exh.P-57 dated 29th July 1987, addressed by Madhu Pandit in his capacity as ISKCON Bangalore, records that the amount of Rs.7,75,000/- has been deposited. Another letter of 2nd August 1988, addressed by Madhu Pandit as President of ISKCON

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Bangalore to the Deputy Director, Town Planning, records that the sale deed has been duly engrossed after paying the stamp duty of Rs.93,000/-. The sale deed dated 3rd August 1988 was executed by BDA in favour of the President of ISKCON residing at 210, Bellary Road, Upper Palace Orchards, Bangalore. A recital in the sale deed refers to an application made by ISKCON to the BDA for the allotment of bulk land. The first application was made on 5th February 1987, specifically by ISKCON Bangalore. Any application made by the Bangalore branch of ISKCON Mumbai has not been filed on record. A copy of the registered sale deed was submitted under the signature of Madhu Pandit as President of ISKCON Bangalore to the Deputy Director, Town Planning, Bangalore, along with a letter dated 12th August 1988. Although Madhu Pandit had signed the letter of possession and the sale deed, there is no document on record produced by ISKCON Mumbai to show that he was acting in his capacity as the Chairman of the Bangalore branch of ISKCON Mumbai.

49. The application for exemption under Section 19(1) of the ULC Act was made by a letter dated 15th May 1989 (Exh.P-72) by Madhu Pandit as the President of ISKCON Bangalore. Copies of the registration certificate of ISKCON Bangalore under the Karnataka Societies

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Registration Act and the Memorandum of Association of ISKCON Bangalore were forwarded along with the application. An affidavit in support filed by Madhu Pandit records that the possession of the lands has been handed over to ISKCON Karnataka.

50. None of the documents/letters concerning the allotment of land indicate that Madhu Pandit acted as the President of the Bangalore branch of ISKCON Mumbai. In fact, the words "Bangalore Branch" are not found in any of the material documents. On the contrary, all the documents, from the application for allotment to the grant of exemption under the Urban Land Ceiling Act, indicate that the application for allotment was made on behalf of ISKCON Bangalore and that allotment was made to the said Society. There is nothing placed on record to show that any correspondence was made by ISKCON Mumbai with any authority or any party claiming that the allotment of Schedule 'A' property was made to ISKCON Mumbai. No application is shown to have been made by ISKCON Mumbai or its Bangalore branch.

51. In the entire correspondence in relation to the allotment of Schedule 'A' property, the name of ISKCON Bangalore appears. At some places, the name of ISKCON Karnataka appears. The High Court has recorded a finding that the round rubber seal of ISKCON Bangalore

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was affixed clandestinely to some of the correspondence with the BDA and the telephone department. There is a finding recorded that Madhu Pandit and his associates are falsely claiming the scheduled properties in the name of ISKCON Bangalore by taking advantage of the similarity in the name. The High Court recorded a finding that Schedule 'A' property has been acquired by ISKCON Mumbai in the name of its branch at Bangalore. The record of the BDA in support of this theory was not placed on record by ISKCON Mumbai. As stated earlier, from the application for allotment to the sale deed and subsequent correspondence, all documents are made in the name of ISKCON, Bangalore. As stated earlier along with the first application dated 1st February 1987 (Exh.P-51) a copy of the registration certificate of ISKCON Bangalore was produced and in the application, there is a specific averment made that the applicant International Society for Krishna Consciousness has been registered under the Karnataka Societies Registration Act and even registration number has been mentioned in the said letter. The Memorandum of Association of ISKCON Bangalore was relied upon in the said letter and was forwarded along with it. The genuineness of this letter is not disputed by any party. It has been marked as an exhibit without objection. Even the letter dated 1st

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August 1987 addressed by ISKCON Bangalore records that the said Society has been registered in Bangalore. It is pertinent to note that it is not the case of ISKCON Mumbai that Schedule 'A' property was purchased benami by it in the name of ISKCON Bangalore. As the application for allotment is specifically made by ISKCON Bangalore, registered under the Karnataka Societies Registration Act, the High Court could not have held that the allotment was to ISKCON Mumbai through its branch in Bangalore. In fact, the sale deed dated 3rd August 1988 refers to an application for allotment made to the BDA. Except for the application dated 5th February 1987 made by ISKCON Bangalore, no other application for allotment has been brought to record. Therefore, the application for allotment referred to in the sale deed is the application for the allotment made by ISKCON Bangalore. The record is consistent, which shows that the allotment sought by ISKCON Bangalore was made to ISKCON Bangalore. From the date of the sale deed, no application was made by ISKCON Mumbai to correct the BDA record. The stand that the property was acquired by ISKCON Mumbai in the name of its Bangalore branch was taken for the first time while filing a written statement on 2nd November 2002. The Counter-claim was made on 28th June 2004.

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52. There is another aspect of the case which needs consideration. Section 38B of the Bangalore Development Authority Act, 1976 (for short 'BDA') reads thus:

> **"38B. Power of authority to make bulk allotment**.- Notwithstanding anything contained in this Act or development scheme sanctioned under this Act, the Authority may, subject to any restriction, condition and limitation as may be prescribed, make bulk allotment by way of sale, lease or otherwise of any land which belongs to it or is vested in it or acquired by it for the purpose of any development scheme,-
>
> (i) to the State Government; or
> (ii) to the Central Government; or
> (iii) to any corporation, body or organisation owned or controlled by the Central Government or the State Government; or
> (iv) to any housing co-operative society registered under the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959); or
> (v) to any society registered under the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960); or
> (vi) to a trust created wholly for charitable, educational or religious purpose:

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> Provided that prior approval of the Government shall be obtained for allotment of land to any category listed above."
>
> (underline supplied)

53. In view of clause (v) of Section 38B, an application was made by ISKCON Bangalore for allotment. It is true that ISKCON Mumbai was also registered as a Public Trust under the MPT Act. However, the application dated 5th February 1987 and subsequent correspondence for allotment of Schedule 'A' property shows that it was always pleaded that the applicant was a Society registered under the Karnataka Societies Registration Act. If the application for allotment was made on behalf of ISKCON Mumbai, the pleading would have been that it is a charitable Trust which will be covered by clause (vi) of Section 38 B. Under the Karnataka Societies Registration Act, under Section 14, it is provided that the property, movable and immovable, belonging to a society registered under the said Act, if not vested in trustees, shall be deemed to be vested in the governing body of the Society.

54. We must also refer to the provisions of the MPT Act. Section 17 provides for the office of the Deputy Charity Commissioner and the Assistant Charity Commissioner maintaining registers. Under sub-section (1) of Section

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22B, there is a mandatory requirement of making registration of a property of a Public Trust in the name of such Trust. No such application was admittedly made by ISKCON Mumbai for entering Schedule 'A' property as the property of ISKCON Mumbai.

55. Therefore, for the reasons recorded above, the High Court's finding that ISKCON Mumbai, through its branch in Bangalore, was the owner of the schedule A property is completely erroneous and deserves to be set aside. It is completely contrary to the documentary evidence. Even assuming that ISKCON Bangalore did not possess funds, and even if money came from ISKCON Mumbai, it cannot claim ownership. Only because the existence of the Bangalore branch of ISKCON Mumbai was proved, one cannot jump to the conclusion that allotment of Schedule 'A' property was to ISKCON Mumbai through the Bangalore branch.

56. Now, regarding the judgment of the Trial Court, a finding has been recorded after a detailed consideration of the evidence that the scheduled properties are owned by ISKCON Bangalore. The Trial Court also recorded a finding that no evidence was produced by ISKCON Mumbai about its possession of the Schedule 'A' property. There is absolutely no evidence to support that claim. Therefore, the impugned judgment of the High Court

must be set aside, and the decree passed by the Trial Court on 17 April 2009 must be restored.

57. We are of the view that as the application for allotment was made by ISKCON Bangalore and as pursuant to the application, the sale deed was executed in favour of ISKCON Bangalore, the entire discussion by the High Court about so-called manipulations made by Madhu Pandit, Bhakti Lata Devi Dasi, Chanchalapati Dasa, Chamari Devi Dasi was not relevant at all. Even assuming that the rubber stamp of ISKCON Bangalore was affixed on certain documents subsequently, it is crystal clear that Schedule 'A' property was allotted by the BDA to ISKCON Bangalore, and ISKCON Bangalore is an independent society registered under the Karnataka Societies Registration Act.

58. While going into the question whether the allotment was to ISKCON Mumbai in the name of the Bangalore branch, the High Court has recorded findings against various individuals which were not warranted at all. As we are setting aside the judgment in Regular First Appeal No.421 of 2009, Civil Appeal Nos.9311-9312 of 2014, Civil Appeal Nos.9307-9308 of 2014, Civil Appeal Nos.9305-9306 of 2014 and Civil Appeal Nos.9309-9310 of 2014 will not survive as the same are for expunging the remarks in the judgment in the High Court. The

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challenge in Civil Appeal Nos.9314 and 9315 of 2024 was to an order recasting the issues passed by the High Court. However, we find that the order of recasting issues was passed with the consent of all the parties as noted in paragraph 18 of the impugned Judgment in Civil Appeal No.9313 of 2014. Even Civil Appeal No.9316 of 2014 will not survive in view of the setting aside of the judgment in RFA No.421 of 2009.

CONSIDERATION OF SUBMISSIONS (IN CIVIL APPEAL NOS.3821-3822 OF 2023)

59. Now, we come to Civil Appeal Nos.3821-22 of 2023. Firstly, we will refer to the pleadings. As stated earlier, ISKCON Bangalore is the 6th plaintiff in Suit No. 1758 of 2003, which is the subject matter of Civil Appeal Nos. 3821-3822 of 2023. In the plaint it is accepted in paragraph 11 that within few months of its registration, ISKCON Bangalore stopped functioning. The bodies under the Rules and Regulations were not constituted. It is claimed in the plaint that the 1st defendant was the President of ISKCON Bangalore, the 1st plaintiff was the Secretary, the 2nd plaintiff was the Vice President, the 3rd defendant was the treasurer and 3rd to 5th plaintiff as well as 2nd and 4th to 10th defendant are the members of the Governing Body of ISKCON Bangalore. It is alleged that the 11th defendant started claiming to be the President,

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the 12th defendant to be the Vice President, the 13th defendant to be the Secretary, the 14th defendant to be the Treasurer, and the 15th to 17th defendants to be the members of the Governing Body of ISKCON Bangalore. It is submitted in the plaint that the 11th to 17th defendants took advantage of the fact that the 1st to 10th defendants and the 1st to 5th plaintiffs were inactive. They also took advantage of the fact that seven members of the governing body had died. Therefore, a declaration was claimed that the 1st to 5th plaintiffs and 1st to 10th defendants constituted a Governing Body of ISKCON Bangalore, and the 11th to 17th defendants have no right to manage or control ISKCON Bangalore. A mandatory injunction was also prayed for directing the 11th to 17th defendants to hand over management of the Governing Body to the 1st to 5th plaintiffs and to the 1st to 10th defendants. Different written statements were filed. The 1st defendant and the 10th defendant filed a written statement in support of the plaintiffs. The 2nd defendant filed a written statement opposing the suit by contending that ISKCON Bangalore was never inactive. The 7th defendant filed a written statement opposing the plaintiffs by contending that the ISKCON Bangalore was always active.

60. The 11th defendant filed a detailed written statement contending that in 1983, the 1st defendant requested the 11th defendant to take over the activities of ISKCON Bangalore as its President. Accordingly, at the Annual General Body Meeting held in 1984, the earlier office bearers resigned *en masse*. On 1st July 1984, the 11th defendant was elected as the President of the Governing Body, and the 12th to 17th defendants were also elected. The written statement refers to the fact that ISKCON Bangalore filed suit No. 7934 of 2001 to protect its properties. It is contended that the plaintiffs started showing interest in the affairs of ISKCON Bangalore after the lapse of 23 years, after a temporary injunction was granted in favour of ISKCON Bangalore for protecting its properties. Various other contentions were raised on facts. Similar contentions are raised in the written statements filed by the 12th, 13th, 15th to 17th defendants. The 3rd defendant filed a written statement supporting the plaintiffs.

61. The Trial Court dismissed the suit. The Trial Court framed the following seven issues:

1) Whether the plaintiffs prove that the 1st to 5th plaintiff and 1st to 10th Defendant constitute the general body of the 6th plaintiff?

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2) Whether the plaintiffs prove that the 11th to 17th Defendants have no right to manage or control the 6th plaintiff?

3) Whether the Defendants 11 to 17 prove that in the general body meeting held on 1.7.1984, a governing body was elected?

4) Whether the plaintiffs are entitled to declarations sought for?

5) Whether the plaintiffs are entitled to mandatory injunction sought for?

6) Whether the plaintiffs are entitled to permanent injunction sought for?

7) To what order or decree?

Issue nos.1, 2 and 4 to 6 were answered against the plaintiffs and issue no.3 was answered in favour of defendants nos.11 to 17.

62. The High Court in RFA No.423 of 2009 has confirmed the judgment of the Trial Court. The entire controversy revolves around the question of whether there was a General Body Meeting held on 1st July 1984 in which the Governing Body was elected. On that aspect, there is a concurrent finding of fact by the Trial Court and the High Court. During the pendency of the appeal

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before the High Court, I.A. was filed for amendment of the cause title for seeking to describe original appellant no.2 (plaintiff no.6) as International Society for Krishna Consciousness, a society registered under the Karnataka Societies Registration Act. The application was rejected by the High Court while deciding the appeal finally.

63. We have perused the evidence of the witnesses. The 1st witness examined by the plaintiffs is S.R. Ramakrishna (the 3rd plaintiff). He claimed that after society was registered, he never received any notice of the Governing Body or General Body Meeting. 1st plaintiff also deposed, in which the same stand was taken. During the cross-examination, he claimed that he had completely forgotten about ISKCON Bangalore after leaving Bangalore. He admitted that there was no difficulty for him if the said entity is wound up. He accepted that he had come to know that the 11th to 17th defendants had taken over ISKCON Bangalore. He denied the suggestion that a General Body Meeting was held in 1979. The 3rd witness examined by the plaintiffs is Amrit Chaitanya Dasa. He claimed that he was raising funds for ISKCON Mumbai, and to his knowledge, ISKCON Bangalore did not exist. He claimed that the ISKCON temple at Bangalore had nothing to do with ISKCON Bangalore. He stated in his cross-examination that he became aware of

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the registration of ISKCON Bangalore for the first time in 2004. He was asked to give evidence for the first time in the year 2008.

64. Another witness examined by the plaintiffs is one Bhanu Swami. He claimed that according to his knowledge, the temple at Bangalore was of Bangalore branch of ISKCON Mumbai. He claimed that he was never a member or functionary of ISKCON Bangalore.

65. Haridasan Nambiar, the 2nd defendant was examined as a witness. He stated that the Annual General Body Meeting of ISKCON Bangalore was held on 1st September 1979. He claimed that in the said meeting, one Shanka Brita Das was elected as the President. He claimed that the next General Body meetings were held in August 1985 and thereafter, in 1986, 1987 and 1988. In the cross-examination, he accepted that he had not pleaded anything about the 1st Annual General meeting in his written statement. He claimed that in the meeting held on 1st July 1984, the audited accounts were accepted.

66. Now, we turn to the findings recorded by the High Court. The High Court notes that on 10th December 2008, the 1st plaintiff, who was examined as PW-2, filed a memo stating that he was not pressing the suit. Therefore, he did not enter the witness box after the withdrawal of the suit by him. Even the 2nd plaintiff filed a memo seeking

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permission to withdraw the suit. On 19th December 2008, the 3rd defendant filed a memo stating that he had realised that the 11th to 17th defendants were duly elected in the meetings held in 1979 and 1984.

67. As noted in the plaint itself, according to the plaintiffs' case, ISKCON Bangalore was dormant for some time. The allegation in the plaint is that the 11th to 17th defendants surreptitiously took over the affairs of ISKCON Bangalore. The High Court, as well as the Trial Court, noted that although the plaintiffs claimed the 1st to 10th defendants were members of the Governing Body, only the 1st, 3rd, and 10th defendants supported the plaintiffs' case. 2nd, 7th and 8th defendants contended that 11 to 17 defendants were elected as members of the Governing Body. As the first two plaintiffs withdrew from the suit, their evidence ceased to be of any significance. Plaintiff no.3 did not tender any documentary evidence to show that 1st to 5th plaintiffs along with 1st to 10th defendants constituted Governing Body of ISKCON Bangalore. There is no reference to any such evidence in his examination-in-chief. Perusal of the examination-in-chief of PW-4 shows that from 1979 till at least 1984, he was away from Bangalore. In fact, he pleaded that he was not aware of the existence of ISKCON Bangalore until 2001. Therefore, his evidence also does not support the

plaintiffs' case that the 1st to 5th plaintiffs and the 1st to 10th defendants were members of the Governing Body.

68. DW-1, who is the 2nd defendant, stated that the original proceedings of the Annual General Body Meeting dated 1st July 1984 (Exhibit D-13) bear the signatures of the 1st to 11th defendants. He stated that from 1st July 1984, the 1st defendant ceased to be the President of ISKCON Bangalore.

69. The Trial Court has examined (Exhibit D-1), which is a certified copy of the proceedings of the General Body Meeting dated 1st July 1984, of which D-13 is the original. Exhibit D-9 is the certified copy of the notice dated 25th May 1984 of the said meeting. The Trial Court also examined the other documentary evidence on record. After considering his cross-examination, the Trial Court held that the plaintiffs were not in a position to impeach the testimony of DW-1, insofar as it related to the Annual General Body Meeting held on July 1, 1984. Ultimately, the Trial Court came to the conclusion that the case of the 11th to 17th defendants, for which a General Body Meeting was held on 1st July 1984, deserves to be accepted.

70. We may note here that plaintiffs have adduced no evidence to prove their case. Both the Courts have accepted the case of the 11th to 17th defendants, who

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claim that they were elected in the July 1984 meeting. After having perused the pleadings and evidence on record, we find no error in the view taken by the Trial Court as well as the High Court.

71. According to the available records, Late Bhaktivedanta Swami Prabhupada initiated the Hare Krishna movement. Looking to the case made out regarding the object of the said movement, in fact, the dispute between ISKCON Mumbai and ISKCON Bangalore ought not to have been brought to the Court. However, they have done so, and in the process, they have litigated for a span of more than 20 years. Therefore, we need to bring the dispute to a close, and that is how we are inclined to quash the FIR. For the same reason, we are not inclined to proceed further in the contempt petition.

72. As we are setting aside the impugned judgment in Regular First Appeal No.423 of 2009, the remaining appeals will not survive.

73. Therefore, we pass the following order:

a) Civil Appeal Nos.3821-3822 of 2023 are hereby dismissed.

b) Civil Appeal No.9313 of 2014 is allowed by setting aside the judgment of the High Court in RFA No.421 of 2009. Subject to what we have held in the

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Judgment, the decree passed in Suit No. 7934 of 2001 by the City Civil Court, Bangalore on 17th April 2009 is restored.

c) In view of findings recorded in Civil Appeal No.9313 of 2014, Civil Appeal Nos.9314-9315 of 2014, Civil Appeal Nos.9311-9312 of 2014, Civil Appeal Nos.9307-9308 of 2014, Civil Appeal Nos.9305-9306 of 2014, Civil Appeal Nos.9309-9310 of 2014 and Civil Appeal No.9316 of 2014 stand disposed of as the same do not survive.

d) The committee headed by Justice R.V. Raveendran, a former Judge of this Court shall stand dissolved on expiry of period of one month from the date of this judgment.

74. There will be no orders as to costs.

.....J.
(Abhay S. Oka)

.....J.
(Augustine George Masih)

New Delhi;
May 16, 2025

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