KASHI MATH SAMSTHAN & ANR. A

v

SRIMAD SUDHINDRA THIRTHA SWAMY & ANR.

(Civil Appeal Nos 7966-7967 of 2009)

DECEMBER 02, 2009

B

[TARUN CHATTERJEE AND H.L. DATTU, JJ.]

Code of Civil Procedure, 1908: O.39 rr. 1 and 2 r/w s.151 and O.41 r.5 r/w s.151 – Temporary injunction and stay of decree – Suit for declaration of plaintiff as 'Mathadhipathi' and C *injunction restraining the defendant-former 'Mathadhipathi' from exercising powers etc. as 'Mathadhipathi' – Trial court granting interim injunction directing parties to maintain status quo – Suit dismissed by final order – Appeal to High Court – Interim injunction sought during pendency of appeal – Denied* D *by High Court – On appeal, Held: Findings of courts below show that the plaintiffs failed to make out prima facie case in his favour and balance of convenience was also against him – Interlocutory Order.*

Appellant No.2 filed a suit to declare him as the E *'Mathadhipathi'* **and 21st Pontiff of the appellant-Math. He also prayed for injunction, restraining respondent No.1 from exercising powers, privileges and duties as the** *'Mathadhipathi'* **of the Math. Respondent No.1 in his written statement and counter claim stated that since he** F **continued a** *'Mathadhipathi'* **of the Math, appellant No.2 had no right to disturb the functioning of respondent No.1. During pendency of the suit, interim injunction was passed by trial court granting** *status quo* **in favour of appellant No.2. By final order, trial court dismissed the** G **suit of appellant No.2 and decreeing the counter-claim of respondent No.1.**

Appellants filed two appeals. They also filed

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A applications under O.39 rr. 1 and 2 r/w s.151 CPC and under O. 41 r.5 r/w s.151 CPC for grant of interim injunction and for stay of decree respectively. High Court dismissed the applications. Hence the present appeals.

B Dismissing the appeals, the Court

HELD: 1.1. There is no reason to interfere with the order of the High Court, in exercise of discretionary power under Article 136 of the Constitution that appellant No.2 failed to make out a *prima facie* case in his favour C and the balance of convenience was also against him. The trial Court, in its Judgment, had carefully and in detail, considered the material documents as well as the oral evidence and then had come to the conclusion that the appellant No. 2 had failed to make a *prima facie* case in D his favour for the purpose of obtaining injunction in his favour. That being the position, appellant No. 2 was not entitled to any discretionary remedy of injunction. [Paras 12 and 18] [1317-F-G; 1324-C-D]

E 1.2. It is well settled that in order to obtain an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a *prima facie* case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury, if injunction is not granted. But it is equally well settled F that when a party fails to prove *prima facie* case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove *prima facie* case to go for trial, it is not open to G the Court to grant injunction in his favour even if, he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury if no injunction order is granted. [Para 13] [1317-H; 1318-A-C]

H 1.3. It is clear from the finding of the trial court that

respondent No. 1 had not abrogated all his powers as 'Mathadhipathi' in favour of the appellant No.2 and he was only entrusted with certain powers. Appellant No. 2 had wanted to be relieved from certain activities of the Math and he had in fact sought permission from the respondent No 1 in this regard. Therefore, it was rightly held by the trial court in the final judgment that appellant No. 2 continued to consider respondent No. 1 as the 'Mathadhipathi' of the Math even after the alleged proclamation of 1994. [Para 13] [1319-C-E]

1.4. The powers of the 'Mathadhipathi' of the Math were not abdicated in favour of the appellant No.2. It is well settled that such power of the Mathadhipathiship of the Math could devolve to any other person after the death of the existing 'Mathadhipathi' or anyone else, who could succeed him as the 'Mathadhipathi' of the Math according to the customs and traditions of the Math. [Para 13] [1320-A-B]

1.5. It is true that since the appeals pending before the High Court are also to be decided on facts, basically this position needs to be maintained by the High Court. But in view of the peculiar facts and circumstances of the present case and in view of the nature of rights given to the appellant No.2, as noted *prima facie,* and in view of the fact that appellant No. 2 had failed to make out any *prima facie* case to go for trial, *status quo* should not be allowed to continue till the disposal of the appeals by the High Court. [Para 14] [1320-C-E]

1.6. Although the trial court had directed the parties to maintain *status quo* in the matter of functioning of the 'Mathadhipathi' of the Math till the disposal of the suit, but such order was passed on a finding that the appellant No. 2 had failed to prove *prima facie* case to obtain such an order of *status quo.* That apart, it is well settled that when parties went to trial and adduced evidence in support of

A their respective cases, it would be open to the court to reach to a different conclusion at the time of disposal of the suit and grant relief accordingly. [Para 14] [1321-E-G]

1.7. While deciding the suit, the trial court held relating to the declaration of title of the 'Mathadhipathi' that respondent No.1 had never abrogated his powers as the 'Mathadhipathi' of the Math in favour of the appellant no.2 and, therefore, after assessing the evidence and the submissions of the parties, have granted a decree for permanent and mandatory injunction and directed appellant No. 2 to restore back the holy deities and other materials in his possession relating to the Math in favour of the respondent No.1. The trial court also after considering the entire evidence and materials on record in the final judgment held that the balance of convenience was in favour of the respondent no. 1 and that the appellant No 2 had failed to prove that he succeeded as the 'Mathadhipathi' w.e.f. 1994 after the proclamation by the then 'Mathadhipathi' i.e. respondent No.1. The final findings of the trial court, of course, would be taken into consideration by the High Court in the first appeals but at this stage it cannot be held that such findings can be said to have been vitiated and the judgment of the trial court needs to be interfered with. [Para 14] [1321-G-H; 1322-A-C]

1.8. A careful perusal of the findings of the trial court as well as the High Court and also after considering the submission of respondent No. 1 that he had only abrogated some of his powers and not all and that he was still continuing as the 'Mathadhipathi' of the Math, would *prima facie* show that appellant No. 2 had failed to prove that he was made the 'Mathadhipathi' of the Math by respondent No. 1 or respondent No. 1 had relinquished his right of the 'Mathadhipathi' of the Math. [Para 15] [1322-E-G]

1.9. The finding arrived at by the trial Court as well as by the High Court to the effect that the seat of 'Mathadhipathi' can be transferred to the successor of the existing 'Mathadhipathi' only after his death and not before, which is apparent from the customs and traditions of the Math, it is difficult to accept at least *prima facie* the case that the respondent No. 1 had relinquished the seat of 'Mathadhipathi' in favour of appellant No. 2 and such seat could be assumed by appellant No. 2 before the death of the existing 'Mathadhipathi' i.e. respondent No. 1 or by any deed executed by respondent No.1 relinquishing as the 'Mathadhipathi' of the Math. [Para 17] [1323-E-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7966-7967 of 2009.

From the Judgment & Order dated 25.3.2009 of the High Court of Judicature, Andhra Pradesh at Hyderabad in A.S.M.P. No. 285 of 2009 in A.S. No. 90 of 2009 and A.S.M.P. No. 286 of 2009 in A.S. No. 91 of 2009.

R.F. Nariman, Ranjit Kumar, Ganesh Shenoy, Rajesh Mahale for the Appellants.

K.K. Venugopal, Romy Chacko, Ankur for the Respondents.

The Judgment of the Court was delivered by

TARUN CHATTERJEE, J. 1. Leave granted.

2. These two appeals, by way of Special Leave Petitions, have been preferred against a common order dated 25th of March, 2009, passed by the High Court of Judicature, Andhra Pradesh at Hyderabad in A.S. No. 90 and 91 of 2009, by which the High Court had rejected the interim applications filed by the appellants seeking status quo and stay of execution of the decree passed by the Additional District Judge, IV Court at

A Tirupathi in a suit for declaration and injunction.

3. Shri Kashi Math Samsthan (in short "the Math"), which is the appellant No. 1 herein, was established somewhere between the 14th and 15th Century A.D. It is one of the three Dharma Peethas or spiritual thrones of the Gowda Saraswatha B Brahmin Community (in short "GSB"). The Respondent No. 1 namely, Shrimad Sudhindra Tirtha Swamy (hereinafter referred to as the "Respondent No 1") became the Mathadhipathi of the Math in or around 1949 after the death of the then Mathadhipathi.
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4. On 26th of April, 1989, Respondent No. 1, who was the guru of one Shrimad Raghavendra Thirtha Swami (hereinafter referred to as the "appellant no.2"), had chosen him as his Patta Shishya and successor to the Math. On 7th of July, 1989, the D Respondent No. 1, conferred Diksha, thereby initiating the Appellant No 2 to Sanyasa. On 4th of November, 1994, the respondent no 1 entrusted some religious, Dharmic and social activities as well as management of the Math and handed over all the deities, along with paraphernalia, insignia etc to the E Appellant no 2. As per the prevalent tradition of the Math, the Mathadhipathi is supposed to perform Pooja to the presiding deities three times a day, which is referred to as the Trikala Pooja. The Mathadhipathi as the head of the Math is the custodian of the "Mudra" (Insignia), or the seal of the Math. The F respondent No. 1 entrusted his authorities, powers and privileges as the 20th Pontiff and head of the Math in respect of some of the religious, dharmic and social activites of the Math, except those of Shri Vyashasram at Haridwar to and in favour of the appellant no 2 on and with effect from 12th of December, 1994.
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5. Due to some disturbances in the matter of continuing as a Mathadhipathi of the said Math between the GSB and the respondent No. 1, he sought to prevent the appellant No. 2 from discharging his functions as the Mathadhipathi of the Math and H on the other hand, the appellant No.2 had alleged that the

respondent No.1 started interfering with the affairs of the Mathadhipathi of the Math. Finding this difficulty, the appellant No. 2 had instituted a suit to declare him as the Mathadhipathi and 21st Pontiff of the Math and also prayed for an injunction, restraining the respondent No. 1 from exercising powers, duties and privileges as the Mathadhipathi of the Math. The said suit was filed in the III Court of the Addl. District Judge at Tirupathi. The Respondent No. 1 entered appearance and filed his written statement inter alia alleging that since he had continued to be the Mathadhipathi of the Math, appellant No.2 had no right to disturb the functioning of respondent No. 1 and by a counter claim, he had prayed for return of the deities, paraphernalia, insignia and other articles, which were in possession of the appellant no 2.

6. During the pendency of the suit, an application for injunction was filed by the appellant No.2 and the trial Court directed the parties to maintain status quo in respect of the functioning of the Mathadhipathi relating to the affairs of the Math as well as the articles till the disposal of the suit. It is true that the interim order of status quo granted by the trial Court was operative during the pendency of the suit and was not challenged by the respondent No.1.

7. After issues were framed and evidence was adduced, the suit itself was disposed of on transfer to the IV Additional District Judge, Tirupati, who dismissed the suit of the appellants and allowed the counter claim of the respondent No. 1 by granting a decree for permanent/mandatory injunction thereby directing the appellant No.2 to hand over the articles in his possession to the respondent No. 1 within a period of one month from the date of delivery of the judgment in the suit.

8. Feeling aggrieved by the judgment and decree of the trial Court, the appellants have filed two appeals before the High Court of Judicature of Andhra Pradesh at Hyderabad, which came to be registered as A.S. No. 90 and 91 of 2009. In the said pending appeals, applications for injunction under

A Order 39 Rules 1 and 2 read with Section 151 of the CPC seeking temporary injunction, restraining the respondents from interfering in any manner with the functioning of the appellant No. 2 as Mathadhipathi of the Math, was prayed for. The appellants also filed a separate application under Order 41 B Rule 5 read with Section 151 of the CPC being ASMP no 286 of 2009 on the same day, seeking stay of the judgment and decree passed by the trial court during the pendency of the aforesaid two appeals. By a common impugned Order dated 25th of March, 2009, the High Court dismissed the applications C of the appellants and directed that the execution of the decree granted by the trial court would be subject to the final outcome of the appeals filed before it.

9. Feeling aggrieved by this order of the High Court rejecting the application for injunction and the application for D stay filed by the appellants, these two Special Leave Petitions were filed, which on grant of leave, were heard by us in presence of the learned counsel appearing on behalf of the parties.

E 10. We have heard the learned counsel for the parties and examined the impugned order of the High Court as well as the Judgment of the trial Court, which dismissed the suit of the appellants in respect of which, appeals are now pending before the High Court for final adjudication. Before us, Mr. R. F. F Nariman, learned senior counsel appearing on behalf of the appellants, submitted that since an interim order of status quo regarding the functioning of the Mathadhipathi of the Math was operative during the pendency of the suit and triable issues have to be gone into by the High Court in the first appeals, it was fit and proper for the High Court to direct the parties to G maintain the interim order which was granted by the trial Court during the pendency of the suit. This submission of the learned senior counsel for the appellants was hotly contested by Mr. K.K. Venugopal, learned senior counsel appearing for the respondents. According to Mr. Venugopal, since the appellants H

could not make out any prima facie case to get an interim order of injunction during the pendency of the appeals, question of continuance of the interim order, which was granted by the trial Court during the pendency of the suit, cannot arise at all.

11. Having heard the learned senior counsel for the parties and after going through the impugned order and also the judgment of the trial Court dismissing the suit of the appellants, we do not find any worthy reason to pass an interim order in the manner suggested by Mr.R.F.Nariman, learned senior counsel appearing on behalf of the appellants, in the exercise of our discretionary power under Article 136 of the Constitution.

12. A perusal of the Judgment of the trial Court in respect of which appeals are now pending before the High Court, would clearly show that the appellant No.2 was entrusted with some of the religious, dharmic and social activities of Shri Kashi Math Samsthan except those of Vyasaram, Haridwar by the respondent No.1. It would also be evident from the aforesaid Judgment that the appellant no. 2 himself had requested the respondent No.1 to relieve him from certain duties. It also appears from the said Judgment that the whole trouble started, when the appellant no. 2 had opened a bank account in his individual status. It was also the finding in the suit that the appellant no. 2 except filing Ex P1 to P3, had not filed any other documents at the time of filing of the suit in order to prove that he was appointed as Mathadhipati of the Math. Furthermore, the aforesaid Judgment also would not show that the appellant No. 2 had ever whispered anything about his claim to the TT Devasthanams for temple honours. Apart from that, the trial Court, in its Judgment, had carefully and in detail, considered the material documents as well as the oral evidence and then had come to the conclusion that the appellant No. 2 had failed to make a prima facie case in his favour for the purpose of obtaining injunction in his favour. That being the position, appellant No. 2 was not entitled to any discretionary remedy of injunction.

A 13. It is well settled that in order to obtain an order of injunction, the party who seeks for grant of such injunction has to prove that he has made out a prima facie case to go for trial, the balance of convenience is also in his favour and he will suffer irreparable loss and injury if injunction is not granted. But B it is equally well settled that when a party fails to prove prima facie case to go for trial, question of considering the balance of convenience or irreparable loss and injury to the party concerned would not be material at all, that is to say, if that party fails to prove prima facie case to go for trial, it is not open to C the Court to grant injunction in his favour even if, he has made out a case of balance of convenience being in his favour and would suffer irreparable loss and injury if no injunction order is granted. Therefore, keeping this principle in mind, let us now see, whether the appellant has been able to prove prima facie D case to get an order of injunction during the pendency of the two appeals in the High Court.

In para 21 of the Judgment of the trial Court, it is found:

".....the words 'certain and 'some' quoted above and E 'when we are still in a position to carry on with the traditional duties', prima facie show that the 1st respondent has not surrendered all his rights, privilege and duties and that the 2nd petitioner has not been made as full fledged Mathadhipathi. As per the custom prevailing since F continuous, vatu initiated into Sanyasa and named as successor, will become Mathadhipathi after the Mathadhipathi passes away."

From the aforesaid finding of the trial Court, it is clear that the respondent No. 1 had not abrogated all his powers as G Mathadhipathi in favour of the appellant no.2 and he was only entrusted with certain powers. In para 22 of the Judgment of the trial Court, it was observed as follows :-

"The following circumstances also go to support the version H of the 1st respondent. The 2nd petitioner himself has

addressed a letter dated 4/11/99 reads as follows: A

> 'In view of the recent events, we have kindly decided not to involve in the matters concerning the authority of Shri Samshtan (Adhikartha Vishayas) as well as Dharmic activities (Dharmic Vishayas) of the samaj. Therefore with pranamas, again and again we pray and request to relive us as early as possible.' B

This prima facie shows that the 2nd petitioner has been still recognizing the 1st Mathadhipathi, and therefore C requested him to relieve himself from "certain activities."

A careful reading of the aforesaid findings/observations made in para 22 of the judgment of the trial Court would show that the letter dated 4th of November, 1999 clearly enumerates D the fact that the appellant No. 2 had wanted to be relieved from certain activities of the Math and he had in fact sought permission from the respondent no 1 in this regard. Therefore, in our view, it was rightly held by the trial Court in the final Judgment that the appellant No. 2 continued to consider the E respondent No. 1 as the Mathadhipathi of the Math even after the alleged proclamation of 1994.

The trial court again in para 24 had observed:

> "If all the circumstances are taken into consideration the F irresistible conclusion that can be drawn at this stage is that, the 1st respondent has not abdicated all his powers and privileges as Mathadhipathi and only some powers and privileges have been conferred on 2nd petitioner. In view of the above discussion, *I hold that the 2nd petitioner* G *is not entitled for the injunction orders as claimed by him."* (Emphasis supplied)

In view of the aforesaid findings of the trial Court to the extent that appellant no. 2 was not entitled to the injunction order as claimed by him, it is difficult to find any illegality or infirmity H

A with the findings of the trial court, as noted hereinabove, atleast prima facie in respect of which, the High Court had also agreed. We are, therefore, of the view that the powers of the Mathadhipathi of the Math were not abdicated in favour of the appellant No.2. It is well settled that such power of the B Mathadhipathiship of the Math could devolve to any other person after the death of the existing Mathadhipathi or anyone else, who could succeed him as the Mathadhipathi of the Math according to the customs and traditions of the Math.

14. Mr. Nariman, learned senior counsel appearing on C behalf of the appellants, as noted herein earlier, submitted that since the order of status quo was continuing till the disposal of the suit, that position should be allowed to continue during the pendency of the appeals in the High Court. It is true that since the appeals pending before the High Court are also to be D decided on facts, basically this position needs to be maintained by the High Court. But in view of the peculiar facts and circumstances of the present case and in view of the nature of rights given to the appellant No.2, as prima facie noted herein earlier and in view of our discussions made hereinabove E that the appellant No. 2 had failed to make out any prima facie case to go for trial, we do not think that such state of affairs should be allowed to continue till the disposal of the appeals by the High Court. At this stage, we may note that the Trial Court, while disposing of the application for injunction, held that F although the appellant No. 2 was not entitled to an order of injunction as he had failed to prove that he had a prima facie case and balance of convenience in his favour but still granted status quo till the disposal of the suit. The findings made in this regard may be reproduced below :

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> "In the result, *the petitioners have failed to prove that they have prima facie case and balance of convenience, therefore, the 2nd petitioner is not entitled for interim order as prayed for i.e restraining the respondents from in any way interfering with the exercise of powers, duties*

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and privileges of 21st Pontiff of the 1st petitioner Math. A
However, from the reasons it is clear that the 2nd petitioner has been entrusted with holy deities and other paraphernalia and insignia and it appears that the 2nd petitioner has been performing Trikala Pooja to the holy deities. Therefore, the respondents are hereby restrained B from interfering in performing Trikala Poojas to the Holy Deities by the 2nd Petitioner. *It is further directed that the 1st respondent shall not delegate his powers, particularly the authority to deal with bank accounts and all other movable and immovable properties of Shri Kashi Math* C *Samsthan to any other person i.e. the 1st Respondent shall himself deal with the funds of Shri Kashi Math Samshtan and other movable and immovable properties and he shall not authorize any other person to deal with the same by executing General Power of Attorney or any* D *other documents pending disposal of the suit....*" (Emphasis supplied)

In view of our discussions made herein earlier and having carefully considered the above findings of the courts below, as noted hereinabove, made on the application for injunction, it can E be safely held that although the trial Court had directed the parties to maintain status quo in the matter of functioning of the Mathadhipathi of the Math till the disposal of the suit, but such order was passed on a finding that the appellant No. 2 had failed to prove prima facie case to obtain such an order of F status quo. That apart, it is well settled that when parties went to trial and adduced evidence in support of their respective cases, it would be open to the court to reach to a different conclusion at the time of disposal of the suit and grant relief accordingly. As noted herein earlier, while deciding the suit, the G trial court held relating to the declaration of title of the Mathadhipathi that the Respondent no. 1 had never abrogated his powers as the Mathadhipathi of the Math in favour of the Appellant no 2 and, therefore, after assessing the evidence and the submissions of the learned counsel for the parties, have H

A granted a decree for permanent and mandatory injunction and directed the appellant No. 2 to restore back the holy deities and other materials in his possession relating to the Math in favour of the respondent No.1. The trial court also after considering the entire evidence and materials on record in the final judgment B held that the balance of convenience was in favour of the respondent no. 1 and that the appellant no 2 had failed to prove that he succeeded as the Mathadhipathi w.e.f.1994 after the proclamation by the then Mathadhipathi that is the respondent No.1 herein. The final findings of the trial court, of course, would C be taken into consideration by the High Court in the first appeals but we do not find at this stage to hold prima facie that such findings can be said to have been vitiated and the judgment of the trial court needs to be interfered with.

15. That apart, the High Court in the impugned order, as D well as the trial Court had pointed out that the proclamation, which the appellant No. 2 had cited in support of his case, is not clear to the effect that the respondent No. 1 had denounced all his powers as the Mathadhipathi of the Math in favour of the appellant No.2. In fact, it was the submission of the respondent E No. 1 that he had only abrogated some of his powers and not all and that he still was continuing as the Mathadhipathi of the Math. A careful perusal of the aforesaid findings of the trial Court as well as the High Court and also after considering the submission of the respondent No. 1 that the respondent No. 1 F had only abrogated some of his powers and not all and that he was still continuing as the Mathadhipathi of the Math, would prima facie show that the appellant No. 2 had failed to prove that he was made the Mathadhipathi of the Math by respondent No. 1 or respondent No. 1 had relinquished his right of the G Mathadhipathi of the Math.

16. In view of the aforesaid finding, it is not necessary for us to go into the question on title of the Mathadhipathiship of the appellant No. 2 at this stage, which shall be decided in detail by the High Court while deciding the appeals on merits. H

But we make it clear that the findings made by the trial Court in the final Judgment and the High Court on the application for injunction in the pending appeals are to be treated as prima facie findings which shall not be taken to be final by the High Court at the time of disposal of the appeals.

17. There is another aspect of this matter. It cannot be disputed that as per the custom of Sri Samsthan, Mathadhipathi Seat cannot be relinquished and respondent No. 1 shall continue to work as the Mathadhipathi of the Math till his demise and after his demise, the Shishya or the nominated successor of the respondent No.1 would assume the office of the Mathadhipathi. Further, it can not be said from the evidence on record that the appellant No. 2 on the basis of the proclamation dated 12th of December, 1994 was actually the Mathadhipathi as claimed by him atleast prima facie which could permit the appellant No.1 to obtain the order of injunction from the court. At the same time, we should be reminded that the appellant No. 2 had himself written a letter dated 4th of November, 1999 requesting the respondent No. 2 to relieve from the activities of the Math. It would also appear from the letter that the appellant No. 2 had addressed the respondent No. 1 as the Mathadhipathi of the Math. The finding arrived at by the trial Court as well as by the High Court to the effect that the seat of Mathadhipathi can be transferred to the successor of the existing Mathadhipathi only after his death and not before, which is apparent from the customs and traditions of the Math, it is difficult to accept at least prima facie the case that the respondent No. 1 had relinquished the seat of Mathadhipathi in favour of the appellant No. 2 and such seat could be assumed by the appellant No. 2 before the death of the existing Mathadhipathi i.e. the respondent No. 1 or by any deed executed by the respondent No.1 relinquishing as the Mathadhipathi of the Math.

18. That being the position, we are in full agreement with the views expressed by the High Court as well as by the trial

A Court that the succession to the position of the Mathadhipathi can only be done after the death of the existing Mathadhipathi and not before it. That apart, as noted herein earlier, a perusal of the proclamation dated 12th of December, 1994 would not conclusively suggest that the respondent No. 1 had abdicated
B all his powers as Mathadhipathi of the Math in favour of the appellant No. 1. In view of our discussions made hereinabove and in view of the admitted fact that all the Courts below, starting from the trial Court, while granting status quo during the pendency of the suit i.e. dated 29th of September, 2000 and
C also the Judgment passed by the IV Additional District Judge, Tirupati, in the suit, which is now under challenge in appeals and also the impugned Judgment of the High Court, had noted that the appellant No.2 failed to make out a prima facie case in his favour and the balance of convenience was also against
D him. Accordingly, we do not find any reason to interfere with the order of the High Court in the exercise of our discretionary power under Article 136 of the Constitution.

19. For the reasons aforesaid, the appeals are dismissed. We, however, make it clear that whatever observations/findings
E that have been made by us in this Judgment or the observations/findings which were made by the High Court while deciding the interlocutory applications in the pending appeals, would not mean to prejudice the case of the appellants in the pending appeals before the High Court. The High Court should
F independently decide the appeals on merits without being influenced by any observations/findings made in this Judgment or even in the Judgment of the High Court in the applications for injunction.

G 20. Considering the facts and circumstances of the case, the High Court is requested to dispose of the pending appeals at the earliest preferably within six months from the date of supply of a copy of this order to it. There will be no order as to costs.

H K.K.T. Appeasl dismissed.