

O.P.No.334 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

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THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

OP No. 334 of 2025

1. Siddharth Mehta and 2 Others
S/o.Gautammal Mehta,
Founder Trustee,
The Mehta Foundation.
2. Shrreyans Mehta
S/o.Siddharth Mehta,
Initial Trustee,
The Mehta Foundation.
3. Arihanth Mehta
S/o.Siddharth Mehta,
Initial Trustee,
The Mehta Foundation,
All having office at
No.297, Nehru Timber Market,
Choolai, Chennai - 600 112.

..Petitioner(s)

Vs

No Respondent
Nil

..Respondent(s)

PRAYER: a) Give its opinion and advice as to whether the Trustees of The Mehta Foundation can lawfully enter into partnerships with business entities engaged in various commercial activities for and on behalf of the Trust in accordance with the amended objects of the Trust

b) Give its opinion and advice as to whether the Trustees can accept positions as

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directors, partners, or key managerial personnel in companies, firms or entities, where the trust has investments or business interests, for and on behalf of the trust

c) Give its opinion and advice as to whether such business activities and partnerships would be permissible under the Indian Trusts Act, 1882, and in furtherance of the Trust's objects.

For Petitioner(s): M/s.Dipthi Munoth.A

For Respondent(s): Nil

ORDER

This Original Petition has been filed under Section 34 of the Indian Trusts Act, 1882, seeking this Court's opinion and advice on the following questions:

(a) whether the Trustees of *The Mehta Foundation* can lawfully enter into partnerships with entities engaged in commercial activities on behalf of the Trust;

(b) whether the Trustees can become Directors, Partners or Key Managerial Personnel of companies or other business entities in which the Trust has investments or business interests; and

(c) whether such commercial activities would be permissible under the Indian Trusts Act, 1882.



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2. The petitioners are the Founder Trustee and the Initial Trustees of *The Mehta*

Foundation, a private family trust established under a registered Trust Deed dated 24.10.2024.

3. The Trust Deed originally empowered the Trustees to administer the Trust properties, make investments and carry out the objects of the Trust. Subsequently, by a registered Deed of Amendment dated 22.05.2025, the Trustees' powers were substantially enlarged.

4. Under the amended Trust Deed, the Trustees have been expressly authorised to carry on business activities, either independently or jointly with others; to enter into partnerships; to participate in joint ventures; to acquire shares or controlling interests in companies; and to act as Directors, Partners or Key Managerial Personnel in companies or other commercial entities in which the Trust has an interest.



5. The petitioners contend that, before implementing the amended clauses, they seek the opinion and advice of this Court under Section 34 of the Indian Trusts Act.

6. The third petitioner was examined as P.W.1, and the original Trust Deed, Amendment Deed, and the Resolution of the Board of Trustees were marked as Exhibits P1 to P3.

7. The short question for consideration is whether the relief sought falls within the scope of Section 34 of the Indian Trusts Act.

8. Section 34 enables a trustee to apply to the Principal Civil Court of original jurisdiction for its opinion, advice or direction on any present question relating to the management or administration of the trust property. The jurisdiction is advisory in character. It is intended to protect a trustee who, while honestly administering the trust, entertains a genuine doubt about the proper discharge of his fiduciary duties.



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9. The scope of Section 34 is that the jurisdiction is intended to afford guidance to trustees who honestly seek the Court's opinion on questions arising in the administration of the trust, and not to substitute the Court's commercial or discretionary judgment for that of the trustees themselves.

10. Thus, the jurisdiction under Section 34 is not one for granting declarations of rights nor for according judicial approval to proposed commercial decisions. The Court is not expected to certify the legality or wisdom of future business ventures. It merely advises a trustee when a real and present difficulty arises in the administration of the trust property.

11. On the basis of the above principles, the present petition is clearly outside the scope of Section 34.

12. The Amendment Deed, a registered document, expressly authorises the Trustees to enter into partnerships, acquire shares, undertake commercial ventures, and serve as Directors or Key Managerial Personnel of companies in which the



Trust has an interest. The language used in the amended clauses is explicit and leaves no ambiguity requiring judicial interpretation.

13. Once the Trust Deed itself confers such powers in unequivocal terms, this Court finds no occasion to render an advisory opinion merely reiterating those very provisions. Such an exercise would be wholly redundant.

14. Equally, if this Court were to express any opinion inconsistent with the amended provisions of the Trust Deed, that opinion would effectively curtail or dilute powers consciously incorporated by the settlor through the registered Amendment Deed. Section 34 does not authorise the Court to rewrite, enlarge or restrict the terms of the Trust instrument.

15. The questions raised by the petitioners are not questions concerning the present management or administration of any particular trust property. Whether the Trust should enter into a particular partnership, acquire shares in a particular company, participate in a specified commercial venture, or nominate a Trustee as a



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Director are matters involving commercial prudence, business strategy, financial evaluation, statutory compliance, and fiduciary judgment. Such decisions necessarily depend on the facts of each transaction.

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16. These are matters which the Trustees themselves are expected to evaluate while discharging their fiduciary obligations. The Court cannot, in exercise of its jurisdiction under Section 34, assume the role of a commercial adviser or grant advance approval for every future transaction which the Trustees may contemplate.

17. Significantly, the petition does not disclose any specific transaction proposed to be undertaken, nor any legal impediment encountered by the Trustees in implementing the amended clauses. The petitioners have also not identified any present difficulty in administering any trust property.

18. On the contrary, it appears that the Trustees have already resolved to engage in commercial activities and, for that purpose, have amended the Trust Deed to include the necessary enabling provisions. Having obtained express authority



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under the amended Trust Deed, they now seek a general opinion from this Court affirming those powers.

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19. Such a course is not contemplated by Section 34. The provision cannot be invoked to obtain a judicial seal of approval for powers already conferred by the Trust Deed or to strengthen the Trustees' position in relation to future commercial dealings. The jurisdiction under Section 34 is intended to resolve genuine doubts in trust administration, not to confer advance judicial endorsement of proposed business policies.

20. This Court is therefore of the considered view that the petition does not disclose any bona fide or present question regarding the management or administration of the trust property within the meaning of Section 34 of the Indian Trusts Act. What is sought, in substance, is a declaration approving the commercial powers already incorporated in the amended Trust Deed. Such relief falls outside the ambit of the advisory jurisdiction conferred under Section 34.



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21. The learned counsel for the petitioners relied on the decision of the High

Court of Andhra Pradesh in **Hasan Bin Mubarak v. Chief Judge, City Civil Court, Hyderabad** (decided on 07.04.1998) and the judgment of the Gujarat High Court in **Commissioner of Income Tax v. Swashraya** (Income Tax Reference Nos. 110 of 1992 and 35 of 1995, decided on 12.07.2006).

22. This Court has carefully considered the said decisions. In the opinion of this Court, neither of the above judgments advances the petitioners' case.

23. In **Hasan Bin Mubarak**, the principal question was whether the trustees, having regard to the terms of the Trust Deed and the surrounding circumstances, were competent to continue as partners in a partnership firm, and whether the conduct of one of the trustees, who was alleged to be suffering from mental illness, affected the validity of the administration of the Trust. The Court was concerned with the legality of the trustees' participation in an existing partnership and the consequences arising from a trustee's incapacity. The decision neither considers nor expands the scope of the advisory jurisdiction under Section 34 of the Indian Trusts Act. It does not lay down that a trustee, notwithstanding the existence of an express



enabling clause in the Trust Deed, can invoke Section 34 to obtain a general judicial affirmation of powers already vested in him.

24. Likewise, in **Commissioner of Income Tax v. Swashraya**, the Gujarat High Court addressed the income-tax consequences arising when a trust becomes a partner in a partnership firm. The issue before the Court concerned the assessment of income under the Income-tax Act and the legal permissibility of a trust participating in a partnership, where the Trust Deed authorised such participation. The Court was not called upon to interpret Section 34 of the Indian Trusts Act, nor to determine the circumstances under which a Civil Court may render its opinion, advice or direction under that provision. The ratio of the said judgment is therefore confined to the validity and tax consequences of the partnership arrangement and has no application to the maintainability of the present petition.

25. In the present case, there is no dispute about the Trust's competence to enter into partnerships or to participate in commercial ventures. The registered Amendment Deed expressly authorises the Trustees to enter into partnerships, acquire shares, become Directors or Key Managerial Personnel, and undertake



commercial activities on behalf of the Trust. Accordingly, the validity of these powers is not in issue.

26. The real question before this Court is entirely different. The issue is whether, despite the existence of such express powers under the amended Trust Deed, the Trustees can invoke this Court's advisory jurisdiction under Section 34 of the Indian Trusts Act merely to obtain judicial endorsement of those powers. Neither of the decisions relied upon by the petitioners addresses this question.

27. Accordingly, the authorities cited by the learned counsel for the petitioners are distinguishable both on the facts and on the legal issue involved, and therefore do not assist the petitioners in seeking the relief sought.

28. For all the foregoing reasons, this Court declines to express any opinion on the questions raised in the Original Petition.



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29. Accordingly, the Original Petition is dismissed. There shall be no order as to costs. Consequently, any connected applications shall stand closed.

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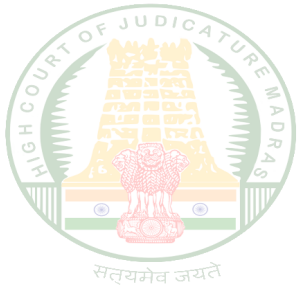
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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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DR.A.D.MARIA CLETE, J.

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