

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

OP(C).No. 2621 of 2015 (O)

PETITIONER(S):

**CHINMAYA MISSION EDUCATIONAL & CULTURAL TRUST
(CMECT - GREATER COCHIN)
REPRESENTED BY ITS CHIEF SEVAK
SRI.A. GOPALAKRISHNAN AGED 64 YEARS
S/O. LATE SRI. A. ANANTHANARAYANA IYER
BUILDING NO. 41/3647-B, 1ST FLOOR, BLUE BIRD TOWERS
PROVIDENCE ROAD, ERNAKULAM, PIN - 682 018.**

BY ADV. SRI.K.P.SREEKUMAR

RESPONDENT(S):

**CHINMAYA VIDYALAYA
TRIPUNITHURA
A SOCIETY REGISTERED WITH DISTRICT REGISTRAR (GENERAL)
ERNAKULAM
AS ER NO. 125/1984 HAVING ITS OFFICE AT CHINMAYA VIDYALAYA
TRIPUNITHURA, KANNANKULANGARA, TRIPUNITHURA
REPRESENTED BY ITS MANAGER/SECRETARY, T.S. NAYAR
AGED 79 YEARS
S/O.V. KRISHNA PILLAI, THEKKEAMBADI, POONITHURA
ERNAKULAM, KOCHI - 682 038.**

**R1 BY ADV. SRI.P.CHANDRASEKHAR
R1 BY ADV. SRI.RAJESH NAIR
BY ADV. SRI.S.VINOD BHAT
BY ADV. SRI.LEGITH T.KOTTAKKAL**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 09-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1-TRUE COPY OF THE REQUEST MADE BY THE RESPONDENT SOCIETY ON 23/08/2007 TO THE DEPUTY COMMISSIONER OF IT (EXEMPTIONS) ERNAKULAM

EXHIBIT-P2-TRUE COPY OF THE LETTER DATED 19/11/2007.

EXHIBIT-P3-TRUE COPY OF THE CHEQUE LEAF USED BY THE CHINMAYA VIDYALAYA ON 26/11/2008 ON CENTURIAN BANK.

EXHIBIT-P3(A)-TRUE COPY OF THE CHEQUE LEAF USED BY THE CHINMAYA VIDYALAYA ON 23/01/2013 OF SBT.

EXHIBIT-P3(B)-TRUE COPY OF THE CHEQUE LEAF USED BY THE CHINMAYA VIDYALAYA ON 08/01/2014 OF SBT.

EXHIBIT-P4-TRUE COPY OF THE PLAINT IN O.S 1357/2015 OF MUNSIFF'S COURT, ERNAKULAM DATED 19/10/2015.

EXHIBIT-P5-TRUE COPY OF THE I.A 9864/2015 DATED 19/10/2015.

EXHIBIT-P6-TRUE COPY OF THE INJUNCTION ORDER DATED 20/10/2015.

EXHIBIT-P7-TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF CHINMAYA VIDYALAYA ALONG WITH THE RULES AND REGULATIONS AND THE REGISTRATION CERTIFICATE WITH THE RESOLUTION DATED 17/10/2015.

EXHIBIT-P8-TRUE COPY OF THE COMMUNICATION DATED 27/10/2015 SENT BY THE CCMT TO SHRI.T.S. NAYAR

EXHIBIT-P9- TRUE COPY OF THE RESOLUTION DATED 17.10.2015 BY THE MANAGING COMMITTEE OF CHINMAYA VIDYALAYA.

EXHIBIT-P10-TRUE COPY OF THE PERPETUAL LEASE DEED DATED 17.12.2007 AND REGD.AS DOCUMENT NO.5888 OF 2007 OF THE TRIPUNITHURA SUB REGISTRY OFFICE.

EXHIBIT-P11-TRUE COPY OF THE LETTER DATED 12.10.2015 FROM THE CHIEF SEVAK CMECT TO THE GOVERNING BOARD

EXHIBIT-P12-TRUE COPY OF THE PROVISIONAL AFFILIATION LETTER FROM THE CENTRAL BOARD OF SECONDARY EDUCATION TO THE PRINCIPAL, CHINMAYA VIDYALAYA, DATED NIL.

EXHIBIT-P13-TRUE COPY OF THE INCOME TAC RETURN FOR THE YEAR 2008-09 WITH THE BALANCE SHEET AS ON 31.03.2008.

EXHIBIT-P13(A) TRUE COPY OF THE INCOME TAC RETURN FOR THE YEAR 2009-10 WITH THE BALANCE SHEET AS ON 31.03.2009.

EXHIBIT-P13(B)-TRUE COPY OF THE INCOME TAX RETURN FOR THE EYAR 2010-11 WITH THE BALANCE SHEET AS ON 31.03.2010.

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EXHIBIT-P13-(C)-TRUE COPY OF THE INCOME TAX RETURN FOR THE YEAR 2011-12 WITH THE BALANCE SHEET AS ON 31.03.2011.

EXHIBIT-P13(D)-TRUE COPY OF THE INCOME TAX RETURN FOR THE YEAR 2012-13 WITH THE BALANCE SHEET AS ON 31.03.2012.

EXHIBIT-P13(E)-TRUE COPY OF THE INCOME TAX RETURN FOR THE YEAR 2013-14 WITH THE BALANCE SHEET AS ON 31.03.2013.

EXHIBIT-P13(F)-TRUE COPY OF THE INCOME TAX RETURN FOR THE EYAR 2014-15 WITH THE BALANCE SHEET AS ON 31.03.2014.

EXHIBIT-P14-TRUE COPY OF THE RESOLUTION DATED 07.10.2015 TO SUPERSEDE THE GOVERNING BOARD OF CHINMAYA VIDYALAYA AND THE CONSTITUTION OF THE ADHOC COMMITTEE FOR THE INTERIM ADMINISTRATION OF THE VIDYALAYA.

EXHIBIT-P15-A COPY OF THE LETTER DATED 02.11.2014 SENT BY THE CCMT TO SRI.T.S.NAIR WITH A COPY MARKED TO THE CHIEF SEVAK OF THE PETITIONER TRUST.

EXHIBIT-P16-A TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE PETITIONER HEREIN IN IA.NO.9864 OF 2015 IN OS.NO.1357 OF 2015 ON THE FILE OF THE MUNSIFF'S COURT, ERNAKULAM.

EXHIBIT-P17-A TRUE COPY OF THE PETITION AS IA.10191 OF 2015 IN THE MUNSIFF'S COURT PRAYING FOR REJECTING THE PLAINT FOR WANT OF CAUSE OF ACTION.

EXHIBIT-P18-TRUE COPY OF THE MINUTES OF THE MEETING OF THE PETITIONER TRUST DATED 12.8.2007.

EXHIBIT-P19-TRUE COPY OF THE DRAFT MINUTES OF THE MEETING OF THE TRUSTEES OF THE PETITIONER TRUST DATED 17.5.2008.

EXHIBIT-P20-TRUE COPY OF THE MINUTES OF THE MEETING OF THE PETITIONER TRUST DATED 13.7.2014.

EXHIBIT-P21-TRUE COPY OF THE MINUTES OF THE MEETING OF THE TRUSTEES OF CMECT(GC) DATED 5.5.2014.

EXHIBIT-P22-TRUE COPY OF THE EXTRACT OF THE MINUTES OF THE MEETING DATED 23.8.2014.

EXHIBIT-P23-TRUE COPY OF THE EXTRACT OF THE MINUTES OF THE MEETING DATED 9.2.2015.

EXHIBIT-P24-TRUE COPY OF THE MINUTES OF THE MEETING OF TRUSTEE OF CMECT (GC) DATED 27.7.2015.

EXHIBIT-P25-TRUE COPY OF THE MINUTES OF THE MEETING OF THE TRUSTEE OF CMECT (GC) DATED 16.8.2015.

EXHIBIT-P26-TRUE COPY OF THE MINUTES OF THE GOVERNING COUNCIL HELD ON 6.1.2014.

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EXHIBIT-P27-TRUE COPY OF THE MINUTES OF THE MEETING OF THE GOVERNING COUNCIL OF CHINMAYA VIDYALA, TRIPUNITHURA DATED 18.12.2013.

EXHIBIT-P28-TRUE COPY OF THE MINUTES OF THE MEETING OF THE GOVERNING COUNCIL HELD ON 11.3.2014.

EXHIBIT-P29-TRUE COPY OF THE MINUTES OF THE MEETING DATED 15.5.2014.

EXHIBIT-P30-TRUE COPY OF THE MINUTES OF THE MEETING DATED 8.7.2014.

EXHIBIT-P31-TRUE COPY OF THE MINUTES OF THE MEETING DATED 20.11.2014.

EXHIBIT-P32-TRUE COPY OF THE MINUTES OF THE MEETING DATED 21.10.2014.

EXHIBIT-P33-TRUE COPY OF THE MINUTES OF THE MEETING DATED 3.12.2014.

EXHIBIT-P34-TRUE COPY OF THE MINUTES OF THE MEETING DATED 22.12.2014.

EXHIBIT-P35-TRUE COPY OF THE MINUTES OF THE MEETING DATED 9.2.2015.

EXHIBIT-P36-TRUE COPY OF THE MINUTES OF THE MEETING DATED 27.4.2015.

EXHIBIT-P37-TRUE COPY OF THE MINUTES OF THE MEETING DATED 22.7.2014.

EXHIBIT-P38-TRUE COPY OF THE INFORMATION DOWNLOADED BY THE PETITIONER FROM THE WEBSITE OF CBSE REGARDING THE INFORMATION OF CHINMAYA VIDYALAYA.

RESPONDENT(S)' EXHIBITS:

EXT.R1(A)-TRUE COPY OF THE DEED OF TRUST DATED 17.03.1994.

EXT.R1(B)-TRUE COPY OF THE AFFILIATION BYE LAW OF THE CBSE.

EXT.R1(C)-TRUE COPY OF THE SAID AGREEMENT OF PERPETUAL LEASE DATED 17.12.2007.

EXT.R1(D)-TRUE COPY OF THE MINUTES OF THE SCHOOL MANAGEMENT COMMITTEE MEETING HELD ON 22.08.2009.

EXT.RA(E)-TRUE COPY OF THE MINUTES OF THE MEETING OF THE GOVERNING COUNCIL HELD ON 04.08.2015.

EXT.RA(F)-TRUE COPY OF THE LETTER DATED 12.10.2015 OF THE PETITIONER TO SHRI.E.S.MENON.

R.AV

//TRUE COPY//

PATO JUDGE

K. ABRAHAM MATHEW, J.

O.P.(C)NO.2621 of 2015

Dated this the 9th day of November, 2015

J U D G M E N T

After hearing learned counsel Sri.K.P.Sreekumar, learned counsel Sri.P.Chandrasekhar, and learned senior counsel Sri.R.D.Shenoy appearing for the intervenor I am satisfied that a direction to the learned Munsiff to dispose of the application filed by the first defendant to reject the plaint for want of cause of action should be disposed of on or before 26.11.2015 is sufficient.

In the result, this O.P is disposed of as follows:

The suit is transferred to the bench of the Principal Munsiff, Ernakulam. The learned Munsiff shall dispose of the application to reject the plaint on or before 26.11.2015. The order suspending Ext.P6 order of the learned Munsiff will continue to be in force till order is passed on the application filed by the first defendant for rejection of plaint. If the plaint is not rejected, the application for temporary injunction shall be disposed of on merits within 2 weeks thereafter, after giving an opportunity to both sides to be heard and the order passed

by this court suspending Ext.P6 order will continue to be in force till the injunction application is disposed of. If salary of the members of the staff (teaching staff 94 and non-teaching staff 24) for the month of October 2015 has not been paid so far, it shall be credited to their bank account for which the first defendant shall take steps and the bank shall act accordingly. This direction alone will not confer any right on the first defendant which it is not otherwise entitled to. The salary for the month of November 2015 also shall be paid accordingly if the plaint is found maintainable. Thereafter, the learned Munsiff may pass appropriate directions.

In the result, this O.P is disposed of as mentioned above.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge