

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.3.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA.Nos.443 and 444 of 2015

1. The Sengunthar Charitable Trust,
Tiruchengode,
Rep. By its Secretary A.Baladhandapani
Having its Registered office at
Door No.1/311-1 Sengunthar Nagar,
Near Sengunthar Engineering College,
Kosavampalayam, Tiruchengode-637205.
Namakkal District.
2. T.P.Arumugam, (Died)
S/o.T.R.Pachianna Mudaliar
3. T.N.Arumugam (Died)
S/o.Narayana Mudaliar.
4. T.S.Natarajan
5. M.K.Dhanasekaran
6. T.Shanmugasundaram
7. B.Pennarasi
8. Mrs.A.Dhanalakshmi (Died)
9. T.N.Kalaimani
- 10.T.N.A.Raja (Old Name A.Arthanareeswaran)
- 11.K.Murugesan
- 12.S.Malarvizhi
- 13.A.Baladhandapani
- 14.B.Ravikumar
- 15.G.Vasanthi
- 16.S.Poongothai
- 17.R.Rajeswari
- 18.B.Mohanasundari
- 19.G.Yasotha
- 20.T.Thangamani
- 21.K.Navamani

...Appellants in both the appeals
Defendants 1 to 13 & 16 to 23

Versus

1.R.Manickam

2.M.Vetrivel

Both are Trustees of
The Sengunthar Charitable Trust
Tiruchengode,
Namakkal District.

...Respondents 1 & 2 both the appeal/
Plaintiffs

3.The Karur Vaisya Bank,
Tiruchengode Branch,
Sangakiri Road,
Tiruchengode,
Namakkal District.

4.The Axis Bank,
Tiruchengode Branch,
SSD Road,
Opp. To Lorry Stand,
Tiruchengode,
Namakkal District.

...Respondents 3 & 4 in
both the appeals/Defendants 15 & 16

(Respondents 3 & 4 are given up
in the above appeal)

Civil Miscellaneous Appeals are filed under order 43 Rule 1 r/w
section 104 of CPC against the Common Fair Order and Final Order
dated 17.11.2014 made in I.A.Nos.310 and 311 of 2009 in O.S.No.103 of
2009 on the file of the Principal District Judge, Namakkal
respectively.

For Appellants : Mr.S.Parthasarathy
for Mr.V.P.Sengottuvel

For Respondents : Mr.N.Jothi
for Mr.M.C.Govindan

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COMMON JUDGMENT

Bitter fight among the trustees for the last six years, has come
to an end with active cooperation of the learned counsels appearing
for both the parties in the above matters.

2. The respondents 1 and 2 in the above appeals have filed a suit in O.S.No.103 of 2009 on the file of the Principal District Judge, Namakkal under Section 92 of C.P.C. for framing a scheme for the conduct of the first appellant-Trust. In the said suit, three interlocutory applications were taken up namely (a) injunction restraining the appellants herein from interfering with the rights of the respondents 1 and 2 from participating the proposed Trust Board meeting; (b) to appoint a receiver to check the management of the first appellant Trust; and (c) to appoint an auditor to audit the statement of accounts of the first appellant-Trust from 2006 onwards. The said applications were allowed after contest by the Trial Court. These appeals have been filed against the orders allowing the applications filed for injunction as well as for appointment of a receiver. A C.R.P. has been filed in respect of appointment of a Chartered Accountant to audit the account from 2006 onwards.

3. When the appeals have been taken up for hearing before this Court, this Court directed the parties to settle the matter among the parties. Both the counsels have agreed and by using their Good Office the matter has been amicably settled. There was exchange of proposals regarding the settlement. Finally a settlement has been reached between the parties. Appellants as well as respondents along with their counsel are present before the Court and they categorically stated that the settlement is reached between them in the following terms:

"(1) All the trustees of the 1st Appellant Trust shall function within the frame work of the Trust Deed, in order to further achieve the objectives and welfare of the Trust.

(2) The Plaintiff shall forthwith withdraw the civil suit in O.S.No.103/2009 on the file of the Principal District Court, Namakkal.

(3) The Office bearers of the Trust shall discharge their duties according to their respective office and function within the authority given to such office as mentioned at Clause 13 of the Trust Deed.

(4) The notice for convening the meeting of the Board of Trustees/Governing Council along with agenda will be communicated to all the trustees by Registered Post with Acknowledgment Due.

(5) The Minutes of the meeting of the Board of Trustees/Governing Council shall be duly recorded in the Minutes book of the Trust then and there on the same day.

(6) The powers and functions of the Board of Trustees shall be exercised on the basis of majority decision. The decision of majority shall be confined to running of the affairs and administration of the Trust and the institutions established and administered by the trust. However, this will not empower the majority of the trustees to undo the basic structure of the trust and the decision by majority would not result in the discontinuation of any of the founder trustees, except in cases where the founder trustee act against the welfare of the trust and act in breach of the trust. Except in the manner set out about the majority decisions shall not affect the rights of the founder trustees."

4. It is also agreed by the parties that appointment of trustees who were made in the absence of respondents 1 and 2 would be ratified in the next board meeting.

5. The appointments of family members already made shall be continued and for which, the plaintiffs shall have no objections.

The parties are bound by the above conditions and there should not be any deviation.

6. In view of the compromise entered into between the parties, O.S.No.103 of 2009 filed by the respondents 1 and 2 on the file of the Principal District Judge, Namakkal is withdrawn and is dismissed as withdrawn.

7. These appeals are disposed of. No costs. Consequently the connected M.P.Nos.1 and 1 of 2015 are closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

The Principal District Judge,
Namakkal.

2 CCs to Mr.M.C.Govindan, Advocate SR.No. 13182

2 CCs to Mr.V.P.Sengottuvel, Advocate SR.No. 12978

C.M.A.Nos.443 and 444 of 2015

SV (CO)
PSI (23.03.2015)



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