

In the High Court of Judicature at Madras

Dated : 05.1.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

Civil Revision Petition (PD) No.4870 of 2014 and M.P.No.1 of 2014

1.M/s.Vellore Institute of Technology
a Public Charitable Trust rep.by its
Chairman & Managing Trustee &
Chancellor Shri.G.Viswanathan

2.G.Viswanathan

...Petitioners

Vs

1.G.V.Sampath
2.Sankar Viswanathan
3.Sekar Viswanathan
4.G.V.Selvam
5.P.L.Mareddy
6.Sundari Reddy
7.Sandya Penta Reddy

...Respondents

PETITION under Article 227 of The Constitution of India against the order dated 20.10.2014 passed in unnumbered I.A.(SR) No.18258 of 2014 in O.S.No.67 of 2014 on the file of the District Court, Vellore.

For Petitioners : Mr.K.M.Vijayan, SC for Mr.A.Saravanan
For Respondent-1 : Mr.V.Lakshmi Narayanan

ORDER

The petitioners have come up with the above civil revision petition, challenging the action of the Trial Court in refusing to number an application

under Order VII Rule 11 of the Civil Procedure Code even to decide the question of maintainability.

2. Heard Mr.K.M.Vijayan, learned Senior Counsel appearing for the petitioners and Mr.V.Lakshmi Narayanan, learned counsel appearing for the first respondent, who is the plaintiff before the Trial Court. The other respondents in the civil revision petition are actually sailing with the petitioners. Therefore, notice to them is dispensed with.

3. The first respondent herein, who is the son of the second petitioner, filed a suit in O.S.No.67 of 2014 on the file of the District Court for various reliefs including the relief of declaration that his expulsion from a public charitable trust was null and void and for certain consequential reliefs. Along with the suit, the first respondent herein had taken out several interlocutory applications.

4. It appears that after taking time in the interlocutory applications filed by the first respondent/plaintiff, the petitioners filed an application in I.A.(SR) No.18258 of 2014 under Order VII Rule 11 to reject the plaint. Since the first respondent/plaintiff opposed the very maintainability of the said application, it appears that the Trial Court adjourned the application from time to time.

5. According to Mr.V.Lakshmi Narayanan, learned counsel appearing for the first respondent/plaintiff, arguments were heard and orders reserved in all the applications. However, this fact is seriously disputed by Mr.K.M.

Vijayan, learned Senior Counsel appearing for the petitioners.

6. De hors the objections and counter objections, the fact remains that the application under Order VII Rule 11 has not yet been numbered. Even if the Trial Court had reserved orders in the said application, its decision one way or the other in an unnumbered application may not bear fruit to any parties to the litigation. Therefore, I am of the view that the proper course of action to be taken by the Trial Court is to number the said application, hear the parties and dispose it of in accordance with law within a time frame.

7. Hence, the civil revision petition is disposed of, directing the Trial Court to number the application under Order VII Rule 11, filed by the petitioners. The first respondent/plaintiff shall file a counter to the application under Order VII Rule 11 on or before 07.1.2015. Thereafter, the Trial Court shall hear both parties on the said application and dispose it of on or before 30.1.2015 in accordance with law. No costs. Consequently, the above MP is closed.

05.1.2015

Internet : Yes

To
The District Court, Vellore.

RS

V.RAMASUBRAMANIAN,J

RS

CRP.(PD) No.4870/2014
and MP.No.1 of 2014

05.1.2015