

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)

Reserved on : 01.12.2016

Delivered on : 09.12.2016

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A.No.2355 of 2011

and

A.No.7064 of 2015

in

C.S. No.875 of 2002

1. Dr.T.D.Sundaravarathan,
residing at 1st Floor,
Lakshmi Bharathi at No.12/69,
3rd Avenue, Sundar Nagar,
Chennai-600 097.
 2. Dr.Velu Annamalai,
residing at No.1-B, Lakshmi Apartments,
First Seaward Road, Valmiki Nagar,
Thiruvanmiyur, Chennai-41.
- ... Plaintiffs

-Versus-

1. Dalit Liberation Education Trust,
rep. by its Managing Trustee,
Mr.Dr.D.Henry Thiagaraj,
office at No.86/49, 1st Avenue,
Indra Nagar, Adayar, Chennai-600 020.
 2. Dr.M.Azariah,
residing at No.8/9,
II Cross Street, V.P.Colony,
Ayanavaram, Chennai-600 023.
 3. Mrs.Y.D.Darisini, (*)
D/o.Yesupatham,
3/5, Muthucholai Street,
Taylor's Road, Chennai-10.
 4. Dr.Mrs.Heleena Rajkumari, (*)
W/o.Mr.K.David,
No.43, Mothilal Street,
R.K.Maternity Home, Trivallur-602 001. ... Defendants
- (*) Three and four impleaded as per
order in A. No.637 of 2003 order on 04.02.2003.

A.No.2355 of 2011

1. Dr.D.Henry Thiagaraj,
Managing Trustee,
Dalit Liberation Education Trust,
86/49, 1st Avenue, Indira Nagar,
Adayar, Chennai-600 020 .Applicant/1st Defendant

vs

1. Dr.T.D.Sundarvaradhan,
S/o.Lakshmi, Mr.Dhanasamy,
1st Floor, Bharathi,
No.12/69,3rd Avenue,
Sundar Nagar,
Chennai-600 097 ..RespondentNo.1/Plaintiff No.1
2. Dr.Velu Annamalai,
S/o.A.Velu,
No.1-B, Lakshmi Apartments,
First Seward Road, Valmiki Nagar,
Thiruvanmiyur,
Chennai-600 041 ..RespondentNo.2/Plaintiff No.2
3. Dr.M.Azariah,
S/o.Masilamani,
4/3, Happy Home Apartments,
17, Balfour Road,
Kilpauk, Chennai- 600 010 ..Respondent No.3/2nd Defendant
4. Mrs.Y.D.Darsini,
W/o.Edward D/o.Yesupatham,,
L-72-A, Kaveri Colony,
Anna Nagar East,
Chennai- 600 102 ..Respondent No.4/3rd Defendant
5. Mrs.Heleena Rajakumari,
Coopted Trustee,
W/o.K.David,
No.41, Muthilal Street,
Maternity Home,
Thiruvallur 602 001 ..Respondent No.5/4th Defendant
5. Mr.V.Karuppan, IAS (Retd.),
E-36, 4th Main Road,
Besant Nagar,
Chennai-600 090. ..Respondent No.6/Administrator

<https://hcservices.ecourts.gov.in/hcservices> Application praying that this Hon'ble Court be
pleased to remove Mr.V.Karuppan IAS (Retd.) residing at
E36, 4th Main Road, Besant Nagar, Chennai- 600090,

appointed as the Interim Administrator of the Dalit Liberation Education Trust henceforth.

A.No.7064 of 2015:-

1. Dr.T.D.Sundarvaradhan,
Mr.Dhanasamy,
1st Floor, Bharathi,
at No.12/69,3rd Avenue,
Sundar Nagar,
Ekkattuthangal,
Chennai-600 097.

2. Dr.Velu Annamalai,
S/o.A.Velu,
No.1-B, Lakshmi Apartments,
1st Seward Road, Valmiki Nagar,
Thiruvannamiyur,
Chennai-600 041.

....Applicants/Plaintiffs

vs

1. Dr.D.Henry Thiagaraj,
Managing Trustee,
Dalit Liberation Education Trust,
86/49, 1st Avenue, Indira Nagar,
Adayar, Chennai-600 020.

2. Dr.M.Azariah,
S/o.Masilamani,
No.8/9, II Cross Street,
V.P.Colony,
Ayanavaram,
Chennai-600 023.

3. Mrs.Y.D.Darsini,
D/o.Yesupatham,
No.3/5, Muthucholai Street,
Tayolor's Road,
Chennai-600 010

4. Mrs.Heleena Rajakumari,
W/o.K.David,
No.43, Muthilal Street,
Maternity Home,
Thiruvallur 602 001

5. Mr.V.Karuppan, IAS (Retd.),
Interim Administrator of DLET,
E-36, 4th Main Road,
Besant Nagar,
Chennai-600 090.

...Respondents/Defendants

Application praying that this Hon'ble Court be

pleased to remove Mr.V.Karuppan, IAS (Retd.) Interim Administrator appointed suo moto by this Hon'ble Court and in his place appoint Dr.D.Henry Thiagaraj, Founder & Managing Trustee and author of the Dalit Liberation Educational Trust.

A.No.2355 of 2011:

Application praying that this Hon'ble Court be pleased to remove Mr.V.Karuppan as I.A.S.(Retd.,) Interim Administrator appointed Suo motto by this Hon'ble Court and his place appoint Dr.D.Henry Thiagaraj, Founder & Managing Trustee and author of the Dalit Liberation Education Trust.

These applications coming on this day before this court for hearing the court made the following order:

The Application No.7064 of 2015 is filed by the plaintiff in the suit for removal of the interim administrator appointed by the Honourable Division Bench of this Court and in his place to appoint Dr.D.Henry Thiagaraj, Founder and Managing Trustee.

2. The Application in 2355 of 2011 is filed by one Dr.D.Henry Thiagaraj, who is the first defendant in the suit for removing the interim administrator appointed by this Court.

3. The brief allegation set out in A.No.2355 of 2011 is as follows :

The first defendant is the First Trustee and became the Managing Trustee. The interim administrator Mr.V.Karuppan was appointed by the Honourable Division

Bench of this Court in O.S.A.No.282 of 2008 in the place of Justice V.Kanagaraj, who after opted his relief from the post as Interim Administrator. The Interim Administrator flagrantly violated the Order of the Honourable Division Bench of this Court and issued cheque in personal name for official expenses and committed serious irregularity and various act of fraud in collusion with the second defendant in the suit. Thereby, has committed an act of waste, despoliation, mischief with unwarranted interference. Because of his age, the Interim Administrator is not taking part in the affairs of the Trust personally and solely depending on one Mr.Paul Pannerselvam, who is a controversial person. Because of his misruling and non feasance, salary to the nursing school staff are not paid for several months. Similarly, the preliminary school staff also have not been paid salary. The Administrator conducted himself autocratic manner without discharging his duties. Therefore, prayed to remove him from the post of the Interim Administrator and appoint some other responsible person.

4. Similarly, the plaintiff in this case has filed an application in A.No.7064 of 2011 to remove the Interim Administrator on the ground that he has not maintained the accounts properly and he has leased out the Trust properties without any permission from the Court. Since, the first defendant has great experience, he should be

appointed in the place of the Interim Administrator.

5. The respondents 3, 4 and 5 denied the allegations and submitted that the plaintiff in the suit is no way connected with the Trust and his henchmen Dr. Henry Thiagaraj has already filed several proceedings which have been concluded against them. Now, in connivance with the first defendant in the suit, the two applications came to be filed. Hence, denying the entire allegations, prayed for dismissal of the applications.

6. It is the contention of the learned counsel appearing for the petitioner in A.No.2355 of 211 that the Trust was originally founded by the petitioner and he was the Managing Trustee. As some problem arose between the parties, originally Justice V.Kanagaraj was appointed as an Interim Administrator by this Court. While appointing Justice V.Kanagaraj, there was a specific Order of this Court that cheques should be signed by the Interim Administrator as well as by the other Trustees. Subsequently, as Justice V.Kanagaraj expressed his inability, the present Interim Administrator V.Karuppan, retired I.A.S. Officer, was appointed and the same condition thereby ordered. The Administrator without following the Order of this Court has signed the cheque individually, besides committed waste and also leased out the Trust properties without the permission of the Court.

That apart, he has not submitted the accounts in spite of the direction of this Court. Besides, he failed to

repair the Trust premises which clearly indicate that he is not at all interested in preserving or protecting the properties of the Trust. He is acting to the tune of the other Trustees. Even he failed to appear before this Court inspite of a direction. Therefore, submitted that he should be removed from the post of the Interim Administrator and in his place reputed Judges of this Court should be appointed.

7. It is the contention of the applicant in A.No.7064 of 2015 that the suit itself has been filed only to remove the second defendant from the Trusteeship. Since the second defendant is no more, the suit itself becomes infructuous. The plaintiff has originally withdrawn the suit. But the same has been subsequently set aside by the Honourable Division Bench. In any event, it is the contention of the learned counsel for the petitioner that the Interim Administrator, without the permission of this court, he has leased out the properties and is committing waste, besides, he has failed to submit accounts then and there and even after a direction by this Court. The only concern of the plaintiff is that the Trust itself is founded for the benefit of the poor people and they should not suffered. Hence, prayed for removal of the Interim Administrator.

8. It is the contention of the respondents 3 and 4 that there were earlier proceedings which have been culminated in dismissal against the plaintiff as well as

the first defendant in the suit, who are the petitioners in the above application. The suit itself filed in collusion with the first defendant. The Honourable Division Bench has already held that trial should be commenced in the suit and the petitioners/plaintiff can work out their remedies in the trial. Without allowing the trial being conducted, the first defendant is instigating the third parties to file petitions, one or other, for the reasons best known to them. There were several proceedings in the matter of the above Trust and there was a specific direction to the first defendant to hand over all the accounts and documents, what so ever, to the Interim Administrator. The alleged lease and mismanagement have been invented only for the purpose of this application and hence prayed for dismissal of the applications.

9. The learned counsel appearing for the Interim Administrator admitted that he was appointed to act as per the Deed of Trust. The Administrator is a man of integrity. He himself belong to Dalit community. In fact, this Court has fixed an honararium of Rs.25,000/- for his service. For the last more than five years, he has not taken even a single pie towards his honourarium. He has filed a detailed affidavit about the management of the Trust properties and accounts as per the direction of this Court. He has also filed the account statement. No documents have been handed over to the Interim

Administrator by the first defendant, inspite of the direction of this Court. Hence, prayed for dismissal of the applications.

10. In the light of the above submissions, now the point arises in these two applications is that whether the Interim Administrator to be removed and in his place some other person to be appointed.

11. The suit itself has been originally filed for removal of one Dr.M.Azariah, who is arrayed as the second defendant in the suit. It appears that now the said the second defendant has already died. The present application in A.No.7064 of 2015 also sought the relief of removal of the Interim Administrator. It is an admitted fact that they are neither Trustees nor have any interest over the Trust properties. Be that as it may.

12. This case has a chequered history. The first defendant in the suit Dr.D. Henry Thiagaraj has filed a criminal complaint in C.C.No.8841 of 2002 for offences under section 499 and 500 of IPC and it was ended in acquittal as can be seen in the page No.34 of the typed set. Similarly, the petitioners in A.No.7064 Of 2015 have already filed a suit in O.S.No.3909 of 2002 for declaration that the appointment of Haleena Rajkumari and Dr.Premila Chandrasekaran as Trustees as null and void. The above suit was also dismissed. Originally for appointment of Interim Administrator of the Trust, an application in A.No.877 of 2002 has been filed in

C.S.No.875 of 2002. Thereafter, the above application was filed for an interim injunction restraining the second defendant from functioning as a Trustee of the first defendant. In the above application, Justice V.Kanagaraj, a retired Judge, of High Court Madras has been appointed as an Interim administrator. Subsequent to the Order in I.A.No.1985 of 2004, this Court has directed that the bank account can be operated by three persons, the Interim Administrator, Dr.D. Henry Thiagaraj, the first defendant and Y.D.Darisini, the third defendant herein. In Order in A.No.868 of 2004, the Honourable Justice R.Banumathi, as she then has passed a detailed Order wherein she has dismissed the application filed to revoke the leave granted under section 92. The above Order has been challenged before the Honourable Division Bench of this Court comprised by Honourable Justice Prabha Sridevan and Honourable Justice M.Sathyanarayan. The above appeal was dismissed granting liberty to the applicant to urge his grievance at the time of trial by adducing evidence, both oral and documentary. By Order dated 22.03.2011, the Honourable Division Bench comprising Honourable Justice Chitra Venkatraman and Honourable Justice P.P.S. Janarthana Raja in the appeal filed against the withdrawal of the suit by the plaintiff. In the above judgement, while setting aside the Order of the Single Judge, allowing the withdrawal of the suit, the Honourable Division Bench has

directed the Single Judge to consider the claim afresh and pass orders in accordance with law, till the orders passed therein, the appointment of the Administrator shall continue without any interruption from any party. It has also held that if the Administrator appointed by this Court requires any direction as regards administrative function of the Trust property, it is open to him to move the trial court for necessary orders. From the above Order, it could be seen that the direction can be sought by the Administrator only in the matter which requires interference or permission from the Court. Again, in another application in A.No.2355 of 2011, the present application, this Court has Ordered and directed the Administrator not to withdraw Rs.1,75,000/- and directed him to keep it in the deposit for the purpose of executing the repair works. Similarly in another Order dated 03.01.2012, the Honourable Justice Vinod K. Sharma, as he then was, directed the police authorities to give proper protection to the Interim Administrator to carry out the functions as an Interim Administrator of the Trust. It is pertinent to note that there is another Order dated 16.11.2012 pass by Honourable Justice K.Chandru, as he then was, wherein the Honourable judged as directed the first defendant to comply with the conditions :

- <https://hcservices.ecourts.gov.in/hcservices/> 1. That Henry Thiagaraj, Managing Trustee, Dalit Liberation Education Trust,

the 1st defendant herein, be and is hereby directed to comply with the following matter :-

(i) to hand over the audited accounts statement for the past 9 years;

(ii) to hand over the documents related to movable and immovable properties;

(iii) to hand over the details of stock list;

(iv) to hand over the FCRA original certificate, 80 G certificate;

(v) to furnish officials correspondence related to the Foreign Funding Agencies;

(vi) to deliver the buildings approved plans of D.L.E.T.

2. That the Interim Administrator, be and is hereby allowed to complete the emergency repair work with available fund in the Bank enabling to satisfy the statutory requirement of the building as per the specification of Indian Nursing Council and Tamil Nadu Nurses and Midwives Council and Government particularly Dean of the Medical College.

<https://hcservices.ecourts.gov.in/hcservices/> 3. That the 1st defendant herein, be and is hereby directed not to instigate

local rowdy elements to object the Interim Administrator entry in to his office in the campus in front of other Trustees and employees.

4. That the 1st defendant herein, be and is hereby advised to withdraw the local rowdy elements engaged by him to prevent the interim Administrator from functioning as court appointed interim Administrator.

5. That the 1st defendant herein, be and is hereby advised not to issue phamphlet against the interim Administrator and other Trustees.

6. That the 1st defendant herein, be and is hereby advised not to sent any more letters to the Government officials to stop and withdraw the recognition given to School of Nursing.

7. That the first defendant herein, be and is hereby directed to hand over the vehicles, original RC books and insurance police.

8. That the first defendant herein, be and is hereby advised (a) not to write letters to any authorities by using the name of school students or staffs (b) not to use

the letter head of DLET in the capacity as Managing Trustee which is strongly opposed by majorities of Trustees and © not to prevent the Trustees who are helping the interim administrator's administration, as per the deed of the Trust and that of the order passed by the Honourable Division Bench.

9. That all the parties to the suit be and are hereby directed to comply with the directions of the interim administrator.

10. That the objections raised by the first defendant herein for the directions shall not be entertained and the aforesaid directions shall continue till the disposal of the suit.

13. When the above Order is challenged before the Honourable Division Bench in O.S.No.459 of 2012, by its Order dated 21.12.2012, directed the counsels appearing for both sides to go to the Trust Office along with the Administrator and hand over the documents pertaining to the Trust to the Administrator by 23.12.2012.

14. From the above, it can be easily seen that there are several directions to the first defendant to hand over the documents to the Interim Administrator.

The additional typed set filed by the Interim Administrator during the hearing of these applications

<https://hcservices.ecourts.gov.in/hcservices/>

have been carefully perused. In pursuance of the directions given by this Court to hand over the documents, the documents have not been handed over. These facts are fortified in the Additional typed set filed by the interim Administrator. Except the xerox copies of some Government Orders, renewal forms, no other original documents have been filed and except the certified copy of the sale deed and route permit of the vehicles. It has to be noted that those documents were secured by breaking open the steel cup boards in the office premises in the presence of the first defendant. Further no evidence, whatsoever, is forthcoming, even to presume that the first defendant has ever participated in the Board of meetings convened by the Interim Administrator.

15. That being the position, mere allegation that the Interim Administrator is committing the act of waste and mismanagement cannot be countenanced. It is an admitted fact that some of the Trust properties has been leased out. It is the contention of the Administrator that he has acted only as per the Trust Deed and there is no violation, whatsoever. The Trust Deed clearly indicate that the trustees have been given power even to purchase or acquire properties and even to dispose the immovable properties and also to take on lease or license or exchange. When the vast power is given under the Trust Deed, merely because one of the properties have

been leased out to generate income by the Interim Administrator, this single incident itself cannot be termed as mismanagement of the Trust. The various proceedings as discussed above clearly indicate that the petitioners and others have already filed an application to vindicate their personal right in their Trust. The way in which the litigation is fought from the very beginning, clearly indicate that nobody is interested to serve the objectives of the Trust. Of course, in application A.No.7074 of 2015, this Court has directed the Interim Administrator to file an affidavit explaining the circumstances under which the Trust properties were given on lease without giving publication and also directed him to produce the lease deed executed by him and also to produce the audited accounts. In this regard, an affidavit has also been filed by the Interim Administrator narrating the various circumstances under which he was acting to preserve the Trust properties. He has narrated the events, as a result he was forced to file a Writ Petition seeking a direction and the first defendant has also filed Crl.O.P.No.1673 of 2012 to register a complaint against the Interim Administrator. From the Orders of this Court in Crl.O.P.No.1673 of 2012, it can be seen that the above petition has been dismissed with a cost of Rs.15,000/-. The audited accounts have also been filed before this Court by the Interim Administrator. The affidavit also clearly shows that, in

fact, he has been acting for the interest of the Trust. To impeach the audited statements oral evidence is required. The Interim Administrator has also disclosed he has not withdrawn even a single pie towards Rs.25,000/- which has been fixed as honourarium by this Court from the year 2011. In fact, the Interim Administrator was a reputed retired I.A.S. Officer. Only on seeing his integrity and character, this Court has appointed him as an Interim Administrator.

16. Therefore, this Court is of the view that instead of wasting the judicial time of this Court in agitating these interim applications, the parties can vindicate their rights in a proper trial without resorting to filing these kind of applications. This Court is of the view that these application have been filed only for some personal interest and not to preserve the properties of the Trust. Admittedly, the Trust is founded for the benefit of the poor people of the Dalit community. Without serving its objectives, the parties are wasting their time in their interim applications for more than 14 years without going for trial. Therefore, this Court is of the view that the petitioners have not made a clear cut case for removing the Interim Administrator. Therefore, both these applications are devoid of any merits and are liable to be dismissed.

17. Accordingly, the applications are dismissed. If the pleadings are completed, the matter to be posted for further proceedings and for trial.

Sd/ N.S.K.J

09.12.2016

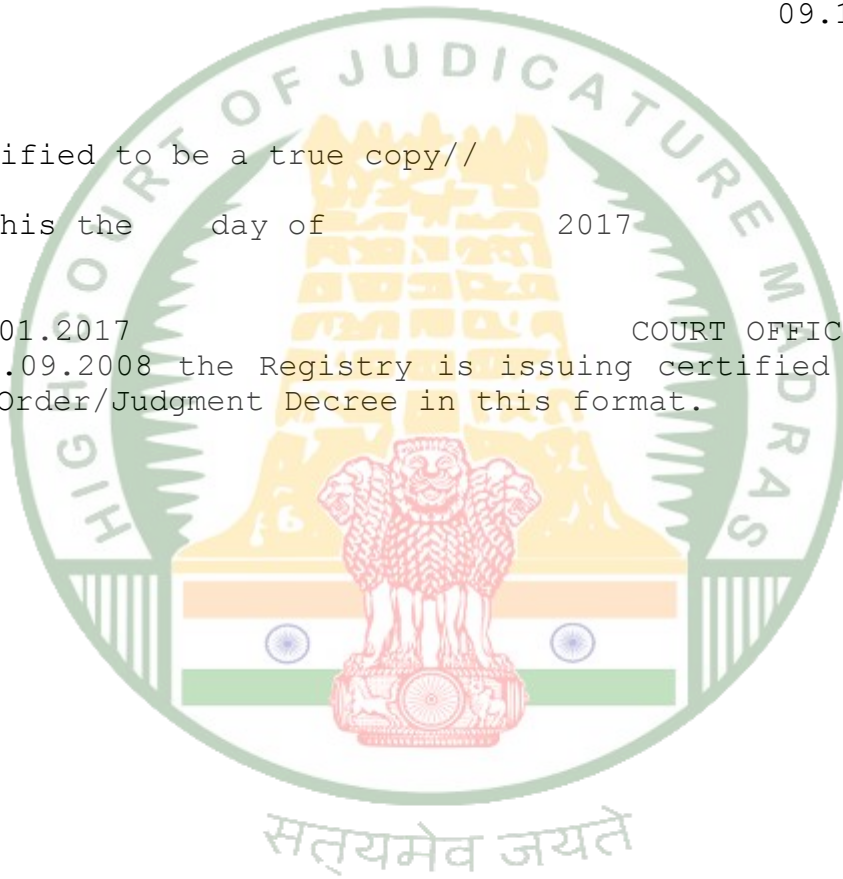
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Dated this the day of 2017

R.s/31.01.2017

COURT OFFICER

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