

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.04.2016

C O R A M :

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P. (NPD) No. 2143 of 2011

and

M. P. No. 1 of 2011

1.

1. S.Manivannan(deceased)

2. Yuvaraj

3. M.Rajalakshmi

4. M.Lakshmi

5. M.Srinivasan

.. Petitioners

[Petitioners 3 to 5 brought on record
as LR's of the deceased sole petitioner
vide order of this Court dated 18.3.2016
made in CMP No.4298 of 2016 in C.R.P.
(NPD) No.2143 of 2011]

/vs/

1.V.M.Purushothama Mudaliar

2.R.Prabhakaran

3.K.Parthasarathy

4.Palania Pillai

5.V.S.Jayachandran

6.The Head Master,
Municipal High School,
Tiruvannamalai.

7.C.Pugalvelan

..Respondents

[Cause Title accepted vide order
of this Court dated 21.06.2011 made
in M.P.No.2 of 2011 in CRP SR No.48303 of 2011]

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 28.04.2011 in I.A.No.13 of 2008 in I.A.No.604 of 1993 in O.S.No.166 of 1949 on the file of the learned Subordinate Judge, Vellore, Vellore District.

For Petitioners :Mr.M.Vijayan for

M/s Karan and Uday

For Respondents :Mr.A.U.Ilango for R1 to R3

Mr.V.Ayyadurai for R5

ORDER

This revision petition arises against the order passed in I.A.No.13 of 2008 in I.A.No.604 of 1993 in O.S.No.166 of 1949 dated 28.04.2011 by the learned Subordinate Judge, Vellore.

2. According to the learned counsel appearing for the petitioners, on 29.07.1898 one Veerasmy Mudaliar established a Public Charitable Trust under a registered Settlement Deed dated 29.07.1898 and dedicated many properties in Vellore and Tiruvannamalai District. After the demise of the Founder, a scheme was decreed in O.S.No.19 of 1917 on the file of the Sub Court, Vellore. Subsequently, a suit was filed

in O.S.No. 166 of 1949 for removal of trustees and for modifying the scheme and the same was decreed on 14.11.1950 by the learned Principal Sub Judge, Vellore, modifying the scheme.

3. In the year 1993, another Application in I.A.No.604 of 1993 was filed by the respondents 1 to 3 and one Madhava Mudhaliar before the Sub Court, Vellore, seeking for a direction to appoint them as Trustees. On 31.07.2007, the learned Sub Court passed an order directing the Trustees to make publication in 3 Tamil Daily Newspapers, inviting consent from eligible persons to be appointed as Trustees. Since the Trustees failed to make publications within the period of 30 days, as ordered by the Court, another application in I.A. No. 13 of 2008 was filed by the petitioners therein, seeking permission to issue advertisements. Challenging the order passed by the Sub Court, in the said Application, a revision petition in C.R.P. NPD No.1841 of 2008 was filed by the 5th respondent therein. By order dated 01.12.2008, this Court allowed the C.R.P.No.1841 of 2008, directing to advertise and invite application. Thereafter, a review application was filed in R.A. No.172 of 2008, by the first respondent before this Court, to review the order in C.R.P.No.1841

of 2008 and the said review application was allowed on 17.12.2008 directing the Scheme Court to invite prospective applications along with the credentials, in a sealed cover, to be submitted directly to the Scheme Court, which will select the Trustees, after processing the applications.

4. In the light of the above said direction of this Court, the Scheme Court by order dated 28.01.2009, appointing respondents 3, 7 and 2nd petitioner and one Srikanth for a period of 5 years. Challenging the above said selection of Trustees, fifth respondent Mr. V.S. Jayachandran and first & third respondents, namely, Mr.V.M. Purushothama Mudaliar and Mr.K.Parthasarathy, preferred C.R.P.Nos.851 and 1534 of 2009 respectively. By order dated 16.03.2011, the said revision petitions were allowed and remanded I.A.No.13 of 2008 to the Scheme Court with a direction to consider relative merits of the applicants and to appoint suitable persons as trustees. Thereafter, the Scheme Court in I.A.No.13 of 2008 in I.A.No.604 of 1993 in O.S.No.166 of 1949 dated 28.04.2011, appointed respondents 1 to 3 and 7 herein as Trustees for a period of 5 years with effect from 28.04.2011.

5. Aggrieved by the said order dated 28.04.2011, two unselected applicants viz., petitioners herein filed C.R.P(NPD).No.2143 of 2011 before this Court challenging the appointment of respondents 1 to 3 and 7. As an interim measure, this Court passed an order in CRP (NPD) No.2143 of 2011 and M.P. No.1 of 2011 dated 30.09.2011, appointing two Administrators viz., Mr.L.Chandra Kumar and M.Ravi Shanmugam, Advocates, with the following suggestions:

"17.In view of the above, the following order is passed as an interim measure, keeping the civil revision pending pending.

(i)Mr.L.Chandrakumar, Advocate No.14, Sunkurama Chetty Street, Chennai-1 and Mr.Ravi Shanmugam, Advocate, No.144, Luz Church Road, Mylapore, Chennai-4, both of whom belong to the Community of the founder of the Trust and both of whom have expressed consent to render free services for a temporary period of about 3 months, for taking stock of the prevailing situation, the status of properties, income etc., are appointed as Interim Administrators for the Trust in question.

(ii)Both of them shall take over the administration of the Trust for a temporary

period with effect from a week of receipt of a copy of this order. The Headmaster of the School who is the Ex-officio member of the Trust shall render all assistance and logistic support to the Administrators, in identifying all the properties of the Trust, handing over all the records of the Trust and in preparing a performance appraisal report, to enable this Court to modify the Scheme.

(iii) All the Trustees, present and past, shall hand over all the records relating to the Trust and shall also hand over possession of the properties of the Trust to the Interim Administrators, to enable the Administrators to prepare a report to this Court.

(iv) The Administrators shall visit and inspect all the properties, take over possession of the properties, inspect all the records and registers of the Trust, scrutinise the books of accounts, bank accounts etc., of the Trust, take possession of all those records and registers and prepare a comprehensive report about the past performance of the Trust as well as the Trustees and submit the same to this Court in the first week of January 2012. Since the Interim

Administration have agreed not to take any remuneration, their expenses for travel from Chennai to the various places where the Trust has properties, shall be met out of the funds available with the Trust.

(v)The Administrators shall continue to perform all the obligation of the trust during their tenure." and also to direct them to file a report.

Pursuant to the said order, the Administrators have submitted a report dated 27.10.2011, before this Court. In the said report, they have stated that they could not proceed further, as it was informed by the learned counsel appearing for the petitioners that the petitioners have filed Special Leave Petition in S.L.P. No.30400 of 2011 against the order passed in M.P.No.1 of 2011 in C.R.P.(NPD) No.2143 of 2011 on 30.09.2011. It is represented that the Hon'ble Supreme Court has dismissed the Special Leave Petition in S.L.P.No.30400 of 2011 on 13.02.2015. The case has been listed before this Court, today "for final disposal".

6. According to Mr. A.U. Ilango, learned counsel for the respondents 1 to 3, the tenure of five years period has expired on

28.04.2016. The said fact has been admitted by all the parties concerned. There is no dispute with regard to the period. So far as none of the parties have taken steps to implement the interim orders passed by this Court dated 30.09.2011 subsequent to the order passed by the Hon'ble Supreme Court. Today, it is agreed by all the parties that as an interim measure, the same Administrators can be continued to manage the Trust property till the modification of the Scheme as directed by order dated 28.4.2011. At this stage, on instructions, learned counsel appearing for the petitioners sought to withdraw the Civil Revision Petition with liberty to approach the Scheme Court to appoint Administrator to manage the Trust.

7. In the light of the above observations and by consent of all the parties, the petitioners are permitted to withdraw the Civil Revision Petition, with liberty to the parties concerned, to approach the Scheme Court, on or before 15.06.2016, by filing appropriate application for appointment of Administrator for the Trust. On such application being made, by any of the parties, the Scheme Court is directed to pass orders on the said application, in accordance with law, within a period of four

weeks.

8. In view of the above, Mr. L. Chandrakumar, and Ravi Shanmugam appointed by this Court as Administrators, are hereby discharged. Accordingly, this Civil Revision Petition is dismissed as withdrawn with the liberty sought for. Consequently, the connected M.P is closed. No order as to costs.

28.04.2016

Index: Yes/No
ari/avr

Note to Office:
Issue order copy on 02.05.2016

To
The Subordinate Judge,
Vellore, Vellore District

D.KRISHNAKUMAR,J

ari/avr/asvm

C.R.P (NPD) No.2143 of 2011
and
M. P. No. 1 of 2011

28.04.2016