

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.3021 of 2015

and

M.P.No.1 of 2015

1. J.Vasanthasudhananthan,

2. E.V.Balasubramaniam

... Petitioners

vs.

1. T.Viswanathan

2. N.Arumugam

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A.No.263 of 2014 in O.S.No.211 of 2012 dated 23.06.2015 on the file of the II Additional District Judge, Erode.

For Petitioners : Mr.E.K.Kumaresan

For Respondents : Mr.M.Guruprasad

ORDER

The defendants in the original suit O.S.No.211 of 2012 are the petitioners in the revision. The respondents in the revision filed the said suit for a direction to the petitioners / defendants to produce the account books pertaining to the suit Trust, for appointment of

an Auditor and for an injunction restraining the petitioners/defendants from withdrawing the amount invested in fixed deposit in the name of the Trust.

2. The suit is in the part-heard stage. During the course of the cross examination of PW-1, PW-1 admitted the petitioners herein / defendants to be Joint Managing Trustees of the Trust. The principal controversy is as to who can sign the cheques?. The right of the plaintiffs to go through the accounts is not disputed by the defendants. What they contend is that the account books are in the office of the trust and the plaintiffs have to come to the office and verify the accounts. Under the said circumstances, the petitioners/defendants filed I.A.No.263 of 2014 before the trial Court for permission of the Court to withdraw the amount invested in fixed deposit and remit the same towards the discharge of the loan availed from the bank. Admittedly, the Trust running the institution availed loan from the bank and the loan amount is growing day by day due to the accrual of interest. In order to minimise the loss, the petitioners have chosen to approach the trial Court with the above said petition seeking permission of the Court to withdraw the amount invested in Fixed Deposit No.255001 with Indian Bank, Chennimalai Branch, and pay the entire amount to the

City Union Bank, Erode branch, which provided loan facility to the Trust.

3. Though the respondents herein / plaintiffs emerged successful in resisting the said application before the trial Court and thereby driving the petitioners herein / defendants to approach this Court with the present Civil Revision Petition under Article 227 of Constitution of India, Mr.M.Guruprasad, learned Counsel for the respondents / plaintiffs would submit that the petitioners may be permitted to make arrangements for the transfer of the amount invested in the above said fixed deposit lying with Indian Bank, Chennimalai Branch to the loan account of the Trust with the City Union Bank, Erode Branch without prejudice to the claim of the parties in the suit. The said concession seems to have been made with a view off set probable loss that may be incurred in having the loan availed from the City Union Bank intact, without repaying the said amount as the interest to be paid on the loan amount is at a higher rate than the rate of interest earned by the fixed deposit.

4. The learned Counsel for the petitioners/defendants is also agreeable for issuing a direction for closing the fixed deposit lying with Indian Bank, Chennimalai Branch and transferring the

amount payable under the said fixed deposit to the loan account of the Trust maintained with City Union Bank, Erode Branch.

5. In view of the above submissions, this Court hereby directs that the petitioners/defendants shall foreclose the fixed deposit covered by fixed deposit receipt No.255001 lying with Indian Bank, Chennimalai Branch and transfer the amount covered by fixed deposit to the loan account of the Trust with the City Union Bank, Erode Branch. The same shall be done within two weeks from today, without prejudice to the contention of the parties in the suit. The trial Court shall also made an endeavour to dispose of the suit without further loss of time and in any event, the suit shall be disposed of within four months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

23.02.2016

Index: Yes/No

Internet: yes/No

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To
The II Additional District Judge, Erode.

P.R.SHIVAKUMAR.J

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