

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 25TH DAY OF JANUARY 2017

THE HON'BLE MR.JUSTICE M.JAICHANDREN

A.Nos.4095 of 2014 and 124 of 2015
in

C.S.No.15 of 1967

In the matter of Estate of
Hajee Mirza Mehdi Ispahni
Charities

Between

1.Mrs.Sha Begum,
2.Syed Jawad Ispahani,
Both are residing at
No.94, "Runnymede",
Poonamallee High Road,
Kilpauk, Madras

...Plaintiffs

vs

1.Rokia Sultan
2.Sakina Begum
3.Syed Hasan Ali Razvi
4.Yussuff Razvi
5.Khasim Razvi
All are residing at No.18,
Ritherdon Road, Vepery, Madras

..Defendants

A.No.4095 of 2014:

S.A.Ispahani,
Member-Advisory Board,
Hajee Mirza Mehdi Ispahani Charities,
123 & 124, Nungambakkam High Road,
Chennai- 600 034

..Applicant/3rd Party

vs

The Administrator General &
Official Trustee of Tamil Nadu,
High Court of Madras
Chennai- 600 104

..Respondent

direct the Administrator General & Official Trustee of Tamilnadu, the Respondent herein to release the funds to the tune of Rs.21,01,573/- (Rupees Twenty one lakhs one thousand five hundred and seventy three only) forthwith, along with a consequential direction to release the funds in future without delay.

A.No.124 of 2015:

Official Trustee of Tamil Nadu
High Court Campus, Chennai- 600 104 ...Applicant

vs

S.A.Ispahani,
Member-Advisory Board,
Hajee Mirza Mehdi Isphani Charities,
123 & 124, Nungambakkam High Road,
Chennai- 600 034 ...Respondent

Application praying that this Hon'ble Court be pleased to permit the Official Trustee to adjust the excess payment of Rs.7,24,484/- for the coming year 2014-15, if not returned by the Board.

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

Application No.124 of 2015 had been filed by the Official Trustee, seeking permission to adjust the excess payment of Rs.7,24,484/-, for the year 2014-15, if not returned by the Board.

2 Application No.4095 of 2014 had been filed by the respondent in the Application No.124 of 2015, namely,

S.A.Ispahani, Member - Advisory Board, Hajee Mirza Mehdi Isphani Charities, seeking direction to the Official Trustee of Tamil

Nadu to release the funds to the tune of Rs.21,01,573/-, along with the consequential direction to release the funds, in future, without delay.

3 Heard the learned Deputy Administrator General and Official Trustee, as well as the learned counsel appearing on behalf of the respondent.

4 In the report filed by the Official Trustee of Tamil Nadu, dated 5.1.2015, it had been stated that the Hajee Mirza Mehdi Ispahani Charities is being administered by the Official Trustee, by a Scheme Decree passed by this Court, dated 21.2.1972, made in C.S.No.15 of 1967. It had been stated that by an order of this Court, dated 11.9.2009, in A.Nos.4220 to 4222 of 2009, the Official Trustee had been directed to allot and earmark the net income, as per the proportion mentioned therein and to send the same to the Board of Trustees, for execution. It had been further stated that the Advisory Board had filed the above said application, in A.No.4095 of 2014, to release the funds to the tune of Rs.21,01,573/-. It had been submitted by the Official Trustee that the tenure of the Advisory Board had expired, on 30.6.2014 and that, a new board has not been constituted. Despite effecting paper publications by the Official Trustee, calling for applications for the appointment of the new board Members, there were no applications from anyone, including the existing board members, for being appointed as the new board members. It had been further submitted that an excess amount had been paid to the Advisory Board, the details of which had been set out in the report.

Therefore, it had been submitted that, when the excess payment made to the tune of Rs.26,34,945/- had been found out, during the month of August, 2013, the office of the Official Trustee had, gradually, reduced the amount to be paid to the Board, for the years 2012-13 and 2013-14, in order to adjust the excess payment made. However, a sum of Rs.7,24,484/-, paid in excess, to the Board, has to be returned, by the Board, to the Trust. Therefore, it is prayed that if the said amount is not returned by the Board, the Official Trustee may be permitted to adjust the said excess amount of Rs.7,24,484/- for the year, 2014-15.

5 A joint memo, dated 10.1.2017, had been filed by the Official Trustee and the respondent. As per the joint memo, the respondent is ready and willing to receive the net income derived as full and final payment, towards the net income payable, till 31.3.2015.

6 An additional report, dated 24.1.2017, had been filed by the Official Trustee, stating that the Advisory Board of Hajee M.M.Ispahani Charities had sent a letter, dated 20.10.2016, mentioning that the net surplus payable, from 1.10.2016 to 30.9.2017, is Rs.16,58,132/-. It had been further submitted that a balance of Rs.10,72,330/- is to be paid, as on 31.3.2015. As an amount of Rs.1,50,000/- had been paid by the office of the Official Trustee, on 27.6.2016, towards Ramzan, as an interim payment, the excess amount to be paid by the Official Trustee, as on 31.3.2015, is Rs.9,22,330/-. It had been further submitted that no payment had been made to the trustees, towards charities, for the past three years, except the interim payment

