

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.01.2017

Coram

The Honourable MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.PD.No.576 of 2014

and

M.P.No.1 of 2014

M/s.Rajiv Gandhi International
School (CBSE) rep.by its Correspondent
G.Rajan

... Petitioner

vs.

1. Dr.A.R.B.Jothikumar
Trustee, M/s.Saraswathi Educational
and Charitable Trust
Bhavani Taluk, Erode District.

2. A.Jagannathan
Trustee, M/s.Saraswathi Educational
and Charitable Trust
Coimbatore.

3. A.Prabha

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 17.12.2013 passed by the learned Principal District Judge, Erode in I.A.No.915 of 2013 in O.S.No.46 of 2013.

For Petitioner : Mr.A.K.Kumarasamy
For Respondents : Served-No appearance

ORDER

The 35th defendant, in the suit filed by the respondents/plaintiffs, has preferred this revision, challenging the order of dismissal passed by the Court below in rejecting the application filed under Order 7 Rule 11(a) of the Code of Civil Procedure seeking to reject the plaint as against the revision petitioner.

2. Heard the learned counsel for the petitioner. Despite service, there is no representation on behalf of the respondents either in person or through the counsel.

3. The case of the revision petitioner is that, he is the Chairman and Founder Trustee of M/s.Sree Rajiv Gandhi International School [CBSE]. The respondents have filed a suit for framing a scheme for proper Administration/Management and maintenance of the Trust by name Saraswathi Educational and Charitable Trust and to modify the existing deed of Trust. The respondents have made certain allegations against the revision petitioner herein and also added him as a party to the said suit. However, according to the revision petitioner, the allegations made against him are false and

frivolous and there is nothing to do with the plaintiff's trust and the trust founded by him. Therefore, he made an application before the Court below seeking to reject the plaint as against him, who is arrayed as 35th defendant in the suit. However, the court below dismissed the same. Hence the revision.

4. The learned counsel for the revision petitioner submitted that when there is no cause of action disclosed in the plaint as against the revision petitioner, no suit would lie. However, the Court below without considering the said fact, had dismissed the application filed by him, warranting interference by this Court.

5. Perused the records.

6. The Court below while dismissing the application filed by the revision petitioner has held that the suit has been filed by the respondents/plaintiffs only for settling a scheme for proper administration and management and also for the maintenance of the first defendant's trust, viz., Saraswathi Ammal Educational and Charitable Trust. It has also held that merely because no cause of action has been raised as against the revision petitioner/35th defendant in the suit, that by itself will not be a ground for rejection of the plaint as against that person, which in the considered opinion of

this Court, is not sustainable. When as on the date of filing of the suit, no cause of action is disclosed against a particular person, he need not be arrayed as a party to the said suit. The reading of the plaint averments does not disclose any cause of action against the revision petitioner. The allegations in the plaint are directed only against the third defendant and there is no relief sought for against the 35th defendant. Hence, the suit is liable to be rejected only against the 35th defendant alone.

7. In such circumstances, the order passed by the court below dated 17.12.2013 in I.A.No.915 of 2013 in O.S.No.46 of 2013 has to be set aside. Accordingly, the same is set aside and the Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

06.01.2017

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Index: Yes/No

Internet: yes

To

The Principal District Judge, Erode

PUSHPA SATHYANARAYANA.J

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