



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.12.2017
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

C.M.A. (MD) .No.642 of 2017

1.N.Vijayakumar

2.Naveen Nagendra Sasikumar ... Appellants/Respondents/Plaintiffs

Vs.

1.M.Thangamuthu

2.P.Krishnamoorthy

3.T.Kayalvizhi

4.T.Thangakathiravan

5.T.Gowsalya

... Respondents/Petitioners/Plaintiffs

Prayer:- Civil Miscellaneous Appeal filed under Order 43, Rule 1 (U) r/w 104 of Civil Procedure Code, against the order made in I.A.No.115 of 2016 in O.S.No.6 of 2016, dated 04.03.2017, on the file of the Principal District Court, Dindigul.

For Appellants : Mr.G.Prabhu Rajadurai

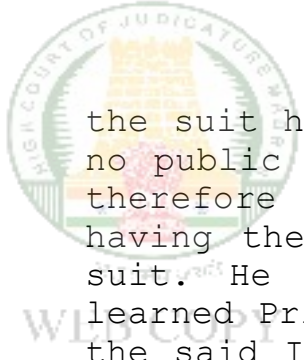
For Respondents : Mr.V.Sitharanjandas

JUDGMENT

Heard the learned counsel on either side.

2.The appellants herein are the plaintiffs in O.S.No.6 of 2016 on the file of the Principal District Judge, Dindigul. The subject matter relates to the Administration of one Amutham Foundation Trust. The said Trust is running a school. The said trust was started by the first defendant namely, Thangamuthu. It is the specific allegation made in the plaint that the said trust was having certain financial difficulties and that at the instance of the third defendant namely, T.Kayalvizhi, the plaintiffs contributed their funds. Since the plaintiffs financially contributed to the well-being of the trust resolutions were passed making them as office bearers of the trust. Certain powers were also conferred on them. The plaintiffs have further alleged that there after the defendants attempted to interfere with the management of the trust. With these averments, the appellants herein filed a suit under Section 92 of Civil Procedure Code. Leave was granted and the suit was numbered as O.S.No.6 of 2016.

3.The first defendant on entering appearance filed I.A.No.115 of 2016 praying for returning the plaint. The case putforth by the first defendant was that the suit has been valued only at Rs.10,000/- and a Court fee of Rs.751 alone was paid. Eventhough



the suit has been filed under Section 92 of Civil Procedure Code, no public right is sought to be vindicated. The first defendant therefore contended that the District Munsif Court would alone be having the pecuniary jurisdiction and competent to entertain the suit. He therefore prayed for returning of the plaint. The learned Principal District Judge, after hearing both sides allowed the said I.A.No.115 of 2016 by order dated 04.03.2017. Aggrieved by the same, the plaintiffs have filed this Civil Miscellaneous Appeal.

4.After hearing the learned counsel on either side and after perusing the entire material available on record, I come to the conclusion that the suit has been instituted in order to resolve an internal management dispute. As rightly pointed out by the learned District Judge, a suit under Section 92 of Civil Procedure Code is warranted for vindication of public rights. In this case no such right has been projected. A mere look at Section 92 of Civil Procedure Code would show that a suit under the said provision can be filed for the reliefs set out from Section 92(a) to (g). The reliefs now sought for do not fall under any of those provisions.

5.The learned District Judge therefore rightly allowed the Interlocutory Application filed by the defendant and returned the plaint. The reason assigned by the learned District Judge is sound in law. It does not call for any interference.

6.This Civil Miscellaneous Appeal stands dismissed accordingly as indicated above. No costs.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge,
Dindigul.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+ 1 cc TO Mr.M.Thirunavukkarasu , Advocate in SR No. 91077
+ 1 cc TO Mr.V.Sitharanjandas , Advocate in SR No. 91015

tsg/lis

AE//PN/SAR2/10.07.2018/2P/6C

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