



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.2120 of 2018

and

C.M.P. (MD) .No.9375 of 2018

1 K.V.K.Samy Memorial Educational Trust,
Thoothukudi,
through its President,
V.K.Selvaraj

S.Vellaichamy (died)

V.V.D.Ravindran (died)

2 V.K.Selvaraj

.. Petitioners / Petitioners/
Appellants

vs.

T.Manoharan

.. Respondent /Respondent/
Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 09.08.2018 in I.A.No.68 of 2017 in A.S.No.26 of 2017 on the file of the Sub Court, Thoothukudi.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondent : Mr.N.Dilip Kumar

ORDER

The respondent in the Civil Revision Petition instituted O.S.No.232 of 2004 on the file of the Additional District Munsif Court, Thoothukudi seeking certain reliefs. The subject matter pertains to the affairs of K.V.K.Samy Memorial Educational Trust. The litigation has a chequered history. The suit was originally decreed and an appeal was filed and there was a remand and once again the matter has been decreed. Questioning the decree dated 20.12.2016 made in O.S.No.232 of 2004, A.S.No.26 of 2017 was filed before the Sub Court, Thoothukudi. The appeal was filed on 07.02.2017 along with the appeal I.A.No.68 of 2017 was filed seeking interim stay. The First Appellate Court by the impugned order dated 09.08.2018 dismissed the said IA on the ground that the main appeal itself can be taken up for disposal. Questioning the said order, this Civil Revision Petition has been filed.



2. Heard the learned counsel on either side.

3. The learned counsel for the respondent vehemently contended that the order impugned in the Civil Revision Petition deserves to be sustained.

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4. It is seen that the decree was passed as early as on 20.12.2016 and the appeal was also filed in time on 07.02.2017 itself. More than 1 ½ years have gone by since the institution of the appeal. The Court below ought to have disposed of the said application expeditiously. Without doing so, the matter has been allowed to be kept pending.

5. To dismiss the stay application at this stage on the ground that the appeal itself is ripe for hearing cannot be said to be correct. This is because on account of the non-grant of the interim order, further complications have arisen. Therefore, this Court is of the view that the judgment and decree that is the subject matter of A.S.No.26 of 2017 ought to be stayed till the disposal of the appeal. But then, the appeal itself should be disposed of rather early.

6. The learned counsel for the revision petitioner submits that the next date of hearing is 19.11.2018. Hence, the First Appellate Court is directed to advance the hearing of the first appeal to 05.10.2018 and hear the parties. The first appeal shall be disposed of on or before 31.10.2018. The order impugned in this Civil Revision Petition is set aside. With these directions, this Civil Revision Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

7. The learned counsel appearing for the revision petitioner submits that the petitioner herein will not make any appointments to any teaching post and no major decisions will be taken till the disposal of the first appeal. Any developments that may take place during this intervening period will be subject to the outcome of the first appeal.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The Sub Judge,
Thoothukudi.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1CC TO MR.N.DILIPKUMAR ADVOCATE IN S.R.NO.87198.

+1CC TO MR.G.PRABHU RAJADURAI ADVOCATE IN SR.NO.87190.

PJL

DS RP SAR-1:28.09.2018: 3P/6C

C.R.P. (MD) No.2120 of 2018