

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.02.2019

CORAM
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRP NO.3906 of 2013 and
M.P.No.1 of 2013

S.Gopalakrishnan

... Revision Petitioner

Vs.

1. M/s Arun Rajammal Charitable Trust,
represented by Dr.N.Kalamani,
Professor, Department of English,
Bharathidasan University,
Trichy 620 024.

2. S.Thiagarajan
3. C.Devarajan
4. Dr.N.Kalamani
5. P.Muralidharan
6. Dr.Ponnuraj
7. G.Vignesh

... Respondents

Prayer: Civil Revision Petition filed under Section 227 of the Constitution of India against the order dated 18.01.2013 passed by the Additional Subordinate Judge, Coimbatore in I.A.No.544 of 2010 in O.S.No.101 of 2009.

For Revision Petitioner : Mr.P.Saravana Sowmiyan

For Respondents 1 to 7 : No appearance

ORDER

Revision petition filed against the orders passed by the trial court, dismissing the application filed to reject the plaint.

2. The revision petitioner is the 10th defendant in the original suit. The suit has been originally filed on behalf of the trust to declare the plaintiffs 2 to 7 are the trustees of the first plaintiff trust and consequential permanent injunction. The defendants disputed the contentions of the plaintiffs. In the suit, PW1 was examined. At this stage, the application to reject the plaint had been filed by the revision petitioner on the ground that there is no cause of action to file the suit and also leave under Section 92 of the Code of

Civil Procedure was not obtained.

2. The trial court considering the fact that already PW1 was examined and the cause of action issue can be considered only along with the prayer, dismissed the application. Against which, the revision petitioner came up with this petition.

3. Heard the counsel for the petitioner. The plaintiffs have clearly pleaded in their plaint about cause of action. On the basis of which they are entitled to file a suit for declaration. The cause of action issue has to be seen only on the context of the allegations made in the plaint not on the allegations made by the defendants. Admittedly, PW1 was examined in the suit and at this stage, the defendant filed an application to reject the plaint. When the plaint disclosed bundle of facts, it cannot be rejected at the instance of defendant. As far as the other contention that leave under Section 92 of the Code of Civil Procedure is concerned, the defendant can very well canvass the same at the time of final hearing of the suit. Hence, there is no illegality or infirmity in the orders passed by the trial court.

4. In the result,

(i) The civil revision petition is dismissed. No costs. The connected civil miscellaneous petition is closed.

(ii) The order of the trial court is upheld.

(iii) The trial court is directed to dispose the suit within six months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mst

To

The IIIrd Additional Subordinate Judge,
Coimbatore.

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rrs 26/03/2019