

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

CRP.PD.No.2652 of 2014
and
MP.No.1 of 2014

1.P.R.Palanisamy, President,
Kongu Gurukula Educational Trust,
Periapuliyur Village,
Bhavani Taluk.

2.Prof. K. Arangasamy,
Secretary,
Kongu Gurukula Educational Trust,
No.15, Tamizh Nagar,
Gobichettipalayam.

3.Dr.N.S.K.Samy,
S/o. Chinnappa Gounder,
Treasurer,
Kongu Gurukula Educational Trust,
No.8, Palaniappa Street,
Gandhi Nagar, Erode.

4.Sel. Nallasamy,

... Petitioners

vs.

V.Chennimalai,
S/o. P.Venkidusamy,
Trustee, Kongu Gurukula Educational Trust,
No.407/A2, Yerkad Main Road,
Marudhamuthu Nagar,
Kodappanaickenpatti, Salem.

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 17.04.2014 passed in IA.No.599 of 2014 in OS.No.184 of 2013 on the file of the Principal District Munsif Court, Bhavani.

For Petitioners : Mr.S.Kaithamalai Kumaran

For Respondent : Mr.M.Guruprasad

ORDER

The defendants in the suit are the revision petitioners. The respondent herein filed a suit for permanent injunction against the defendants in the suit praying to restrain the defendants from alienating the suit property on the ground that he is also one of the trustee.

2. In paragraph no. 7 of the written statement, the defendants have stated that the plaintiff was already removed from the honourary membership and hence he cannot have any interest or right over the schedule property to seek the relief of injunction. Thereafter, necessary issues have been framed and the matter is posted for trial. PW1 has been examined by filing proof affidavit on 11.03.2014. At this juncture, the plaintiff has filed IA.No.599 of 2014 to amend the prayer as sought for,

leading to the effect that the plaintiff viz., V.Chennimalai is the honourary member of the honourary trust and removal from the trusteeship is bad in law. After contest, the Interlocutory Application was allowed and amendment was also carried out. Hence the revision petition.

3. The learned counsel appearing for the revision petitioners would contend that once the trial is commenced, there cannot be any amendment of the pleading or the prayer. He would further submit that the trial also failed to take note that PW1 was in the witness box and he was about to be cross examined. Hence, he would submit that the said Interlocutory Application was filed belatedly, with a view to drag on the proceedings. He therefore, prayed for allowing this appeal.

4. Heard the learned counsel appearing for the respondent / plaintiff.

5. After perusing the relief sought for in OS.No.184 of 2013 and the pleadings thereon, it is seen that one V.Chennimalai claims himself as a trustee of the Trust and seeks for a relief of injunction restraining the defendants from alienating the Trust property. In the written statement at

paragraph no. 7, the defendants have specifically averred that the plaintiff was removed from the trusteeship. The written statement was filed on 09.12.2013 and after framing necessary issues, the case was posted for trial. PW1 was examined on 11.03.2014 and subsequently, on 01.04.2014, this Interlocutory Application is filed. Taking consideration of the pleading in the written statement, the determination of the issue involved in this case falls under proviso to the provision for amendment and accordingly the order passed by the learned Principal District Munsif Court, Bhavani allowing the application cannot be found fault with. Furthermore, the pleading is in consonance with the earlier pleading and hence in the interest of justice, amendment of pleading and the prayer portion does not alter the basic structure of the suit. In this view of the matter, the order passed by the learned Principal District Munsif Court, Bhavani does not suffer from any irregularity or illegality warranting interference at this revision jurisdiction and is confirmed.

6. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

7. The learned Principal District Munsif, Bhavani is directed to complete the trial in OS.No.184 of 2013 within a period of four months from the date of receipt of a copy of this order.

03.12.2019

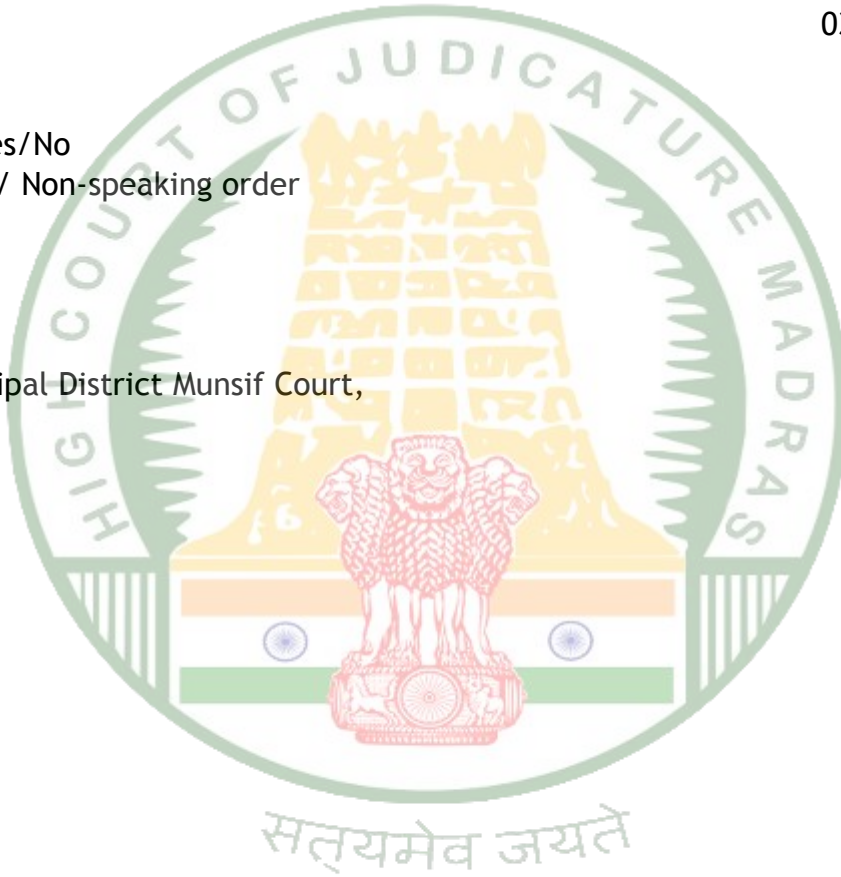
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Index : Yes/No

Speaking / Non-speaking order

To

The Principal District Munsif Court,
Bhavani.

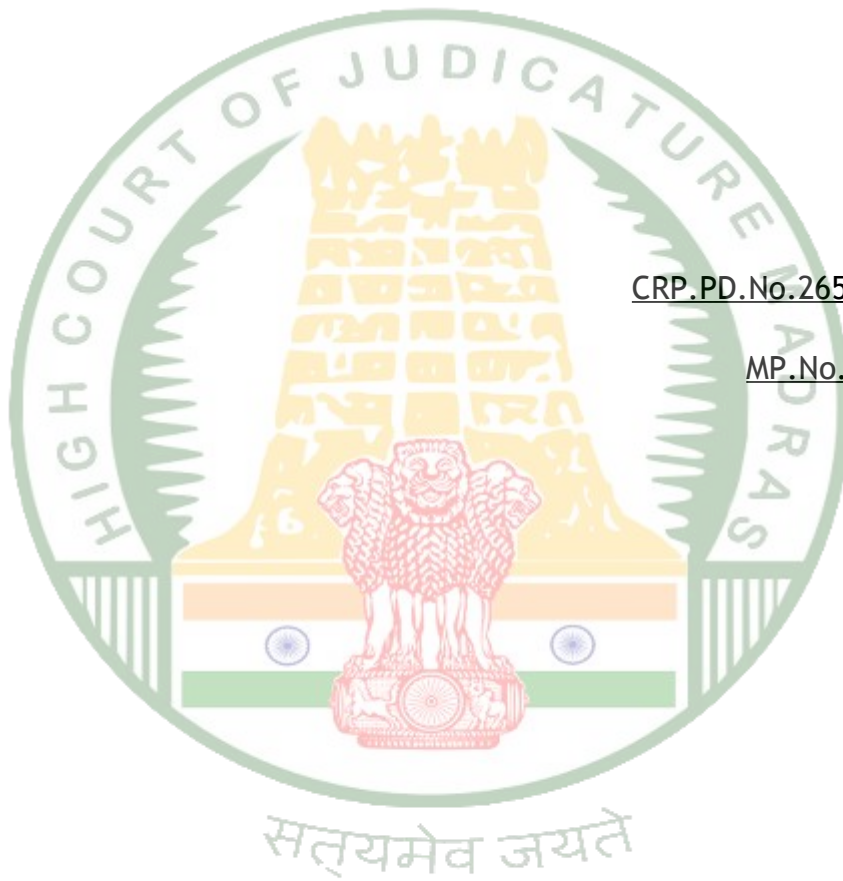


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