

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON: 29.06.2018  
ORDERS PRONOUNCED ON: 14.02.2019

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NO.2000 OF 2017  
AND CMP NO.9704 OF 2017

V.S.Jayachandran

... Petitioner

Vs.

1.P.Padmanaban

2.Vellore Veeraswami Mudaliyar Trust

Rep. by its President

V.M.Purushothaman Mudaliyar

S/o. V.Manika Mudaliyar

Having office at No.7,  
Anaikulathuaman Koil Othavadi,  
Vellore - 1.

3.Vellore Veeraswami Mudaliyar Trust

Rep. by its Secretary

P.Prabhakaran

V.M.Purushothaman Mudaliyar

Having office at No.7,  
Anaikulathuaman Koil Othavadi,  
Vellore - 1.

... Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the plaint in O.S.No.97 of 2017 on the file of Subordinate Judge, Vellore.

For Petitioner : Mr.V.Ayyadurai  
Senior Counsel  
for M/s.Karan and Uday

For Respondent-1 : Mr.S.Parthasarathy

For Respondent  
2 and 3 : Mr.S.D.Venkateswaran

**ORDER**

This Civil Revision Petition has been filed under Article 227 of the Constitution of India to strike off the plaint filed by the first respondent before the Sub Court, Vellore in O.S.No.97 of 2017.

2. From the perusal of the records, it is seen that the Vellore Veeraswami Mudaliar Trust is a Public Charitable Trust being managed pursuant to a Scheme Decree passed by the Sub Court, Vellore. According to the Scheme, five Trustees shall be elected. One among them shall be the descendant of the Founder of the Trust. The father of the revision petitioner was also appointed as a Trustee by the Court. After his demise, it appears that the revision petitioner has taken over possession of the property belonging to the Trust. On 28.04.2011, the Sub Court, Vellore in I.A.No.13 of 2008 in I.A.No.604 of 1993 in O.S.No.166 of 1949, selected

and appointed Trustees to the Vellore Veeraswami Mudaliar Trust. The second respondent was appointed as President and the third respondent as Secretary. Their appointments were challenged by the unselected candidates in CRP (NPD) No.2143 of 2011. This Court dismissed the same on 28.04.2016, as the petitioners therein had withdrawn the same. During the course of challenge to the appointment of Trustees, this Court appointed Administrators. When the petitioners chosen to withdraw the revision, the Administrators appointed by this Court for the interregnum period was also discharged and liberty was granted to the petitioners therein for filing appropriate applications for appointment of Administrator for the Trust. From the facts, it can be culled out that the present revision petitioner was also one of the unsuccessful candidates for the post of Trustee before the Scheme Court.

3. Pursuant to the appointment, the President and Secretary of the said Trust have leased out a shop portion to the first respondent herein for a period of eleven months and it was renewed by them. By virtue of the lease, the first respondent was running the shop. Allegations were made by the first respondent against the revision petitioner that he

has attempted to demolish his shop by using manpower. Therefore, he approached the trial Court by way of O.S.No.97 of 1997 and obtained an order of interim injunction restraining the revision petitioner from interfering with his possession, in I.A.No.146 of 2017 in O.S.No.97 of 2017 dated 21.03.2017. Pending the suit, the revision petitioner has approached this Court, with the above revision petition.

4. From the perusal of the above factual aspects, it is seen that the Scheme Court has appointed Trustees to the Trust and the first respondent was given lease to run a shop, by the Trustees appointed by the Court. A lease deed was entered between the parties with a specified rent and rental advance. I do not find anything abuse of the process of law in the procedure adopted by the second and third respondents. In fact, the revision petitioner has nothing to do with the Trust. The competent trustees have entered into an agreement with the tenant. Whether the agreement executed by the Trustees is valid or not is the matter for evidence. When the cause of action for filing the suit by the first respondent said to have arisen due to certain illegal acts committed by the revision petitioner, it is a matter to be proved in the manner known to

law. Instituting a suit for protecting the civil rights by an individual from an illegal cannot be construed as abuse of process of the Court. The cause of action pleaded by the first respondent specifies alleged high handed action of the revision petitioner. Hence, the suit cannot be said a vexatious suit or obstructing the due process of law. In fact, the lease granted by the Trustees appointed by the Scheme Court is being interfered by the revision petitioner, perhaps, for achieving his oblique motive, can be termed as abuse of process of Court. He should have approached the Scheme Court for appointment of Administrators or Trustees after the expiry of the tenure as observed by this Court in CRP (NPD) No.2143 of 2011 on 28.04.2016. But, filing a revision petition under Article 227 of the Constitution of India on frivolous grounds is unreasonable and the revision petition itself is not maintainable, and is accordingly dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

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14.02.2019

Index : Yes/No  
Internet : Yes/No  
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M.GOVINDARAJ, J.

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To

The Sub Court  
Vellore.



PRE-DELIVERY ORDER MADE IN  
C.R.P.(PD) NO.2000 OF 2017

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