

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

O.S.A.No. 304 of 2019
and C.M.P.No.24884 of 2019

1.R.Pratap Gupta
2.V.S.Palanisamy
3.N.VenkatesanAppellants

Vs

1.Thiruvallikeni Kollavari Katchi
Nootaibandru Nagaramvari (T.K.K.N.N.)
Vysya Charities (Regd.)
Represented by its Trustees

2.D.V.S.Prasad
3.V.Dhamodhar
4.M.Kasinath
5.T.G.Venkatesan

6.C.A.Raja ...Respondents

Appeal preferred under Order XXXVI Rule 9 of O.S.
Rules, 1956 r/w Clause 15 of Letters Patent against the
order and decreetal order dated 29.04.2019 made in
O.A.No.168 of 2019 in C.S.No.141 of 2019 on the file of
this Court.

For Appellants .. Mr.S.Kasirajan

For Respondents .. Mr.S.N.Kirubanandan

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellants aggrieved over the dismissal of the application filed for injunction restraining the respondents/Trustees from functioning in the said capacity on the ground of misfeasance and malfeasance in maintaining the properties of the Trust.

2.Learned single Judge dismissed the application interalia holding that the properties having been sold with the permission of the Court, no prima facie case is made out.

3.Heard the learned counsel appearing for the appellants and the learned counsel appearing for the respondents.

4.Mr.S.Kasirajan, learned counsel appearing for the appellants submits that for more than a century, the properties have been kept in tact. After the present Trustees took charge, on extraneous consideration, substantial part of the properties belonging to the Trust have been sold without any basis. Now, there is also an attempt to sell the remaining properties. Therefore, they should not be allowed to continue as Trustees in the interest of the Trust.

5.Learned counsel appearing for the respondents/Trustees submitted that the allegations are not true as rightly found by the learned single Judge. Thus, the appeal will have to be dismissed.

6.On the allegations made, we cannot go into the same at this stage as they are matters to be considered at the time of trial. Suffice it to say that henceforth no property could be sold without the permission of the Court. Needless to state that the views of the appellants also will be heard at that point of time. This would protect the interest of the Trust. The respondents are functioning as Trustees as of now. Therefore, it would not have been appropriate to pass the order of injunction at this stage.

7.In such view of the matter, while dismissing the Original Side Appeal, we make it clear that it is well open to the appellants to file appropriate application before the learned single Judge for the conduct of the election in accordance with the scheme decree. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mmi

To

1. The Sub Assistant Registrar,
Original Side, High Court, Madras.

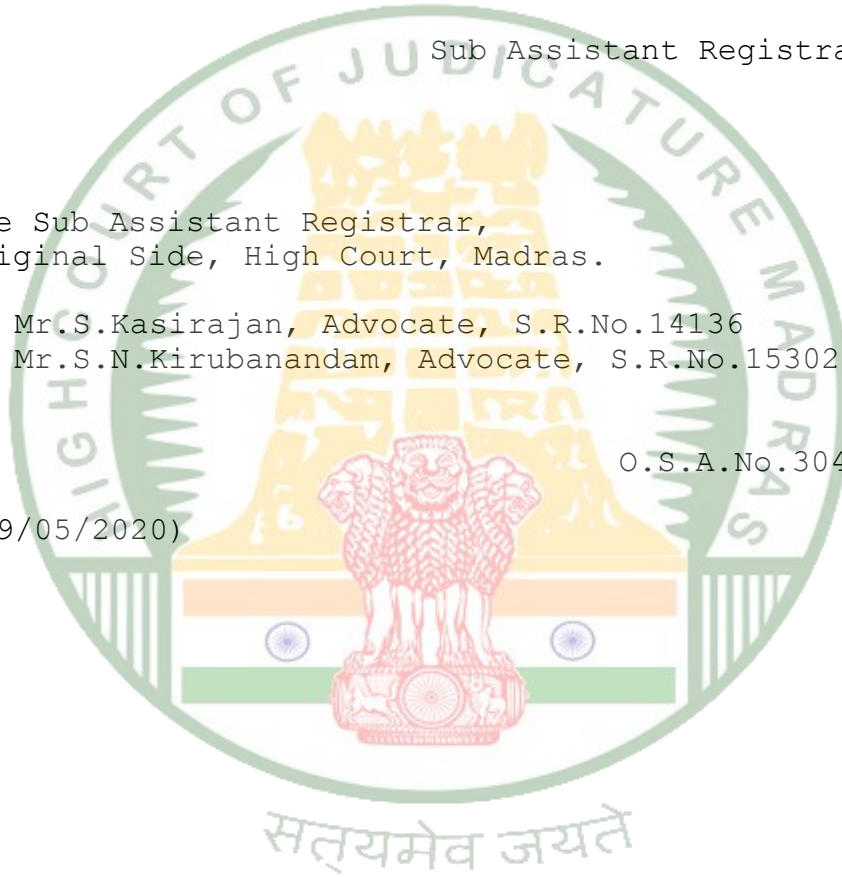
+1cc to Mr.S.Kasirajan, Advocate, S.R.No.14136

+1cc to Mr.S.N.Kirubanandam, Advocate, S.R.No.15302

O.S.A.No.304 of 2019

LN(CO)

Maya (29/05/2020)



WEB COPY