

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :17.12.2020

Pronounced on :22.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.R.P.(P.D).No.4225 of 2019 and
CMP.No.27566 of 2019

R.Devarajan

...Petitioner

Vs

1.Saraswathi Velusamy

2.Anand Velusamy(Trustee)

3.Vanitha Lucus (Trustee)

4.Ramasamy Memorial Education Trust,
No.19, Sri Vignesh Nagar,
Somayampalayam Village, Vadavalli Post,
Coimbatore – 641 041

5.S.V.Nagar Vidhyalaya Matriculation School
No.19, Sri Vignesh Nagar,
S.F.No.656/2, Somayampalayam Village, Vadavalli Post,
Coimbatore – 641 041

6.Dr.S.Muthusamy(Died)

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 24.09.2019, passed in

I.A.No.669 of 2017 in O.S.No.107 of 2012 on the file of the Principal District Judge, Coimbatore, Coimbatore District.

For Petitioner : Mr.C.Prakasam

For Respondents : No Appearance

ORDER

This Petition has been filed to set aside the fair and decretal order dated 24.09.2019, passed in I.A.No.669 of 2017 in O.S.No.107 of 2012 on the file of the Principal District Judge, Coimbatore, Coimbatore District.

2.The respondents 1 to 3/plaintiffs filed the suit in O.S.No.107 of 2012, for the relief of permanent injunction as against the defendants.

3.During the pendency of the suit, the respondents 1 to 3/plaintiffs filed the I.A.No.669 of 2017 to summon the Inspector of Matriculation Schools, Ramanathapuram, Coimbatore, to produce the petition mentioned documents for marking it as exhibits and further to direct the Inspector of Matriculation Schools, Ramanathapuram, Coimbatore, to give evidence before the trial Court.

4.The learned trial Judge allowed the application in I.A.No.669 of 2017 by order dated 24.09.2019, on the ground that in order to contest the case, some oral and documentary evidences are required.

5.Aggrieved by the order of the trial Court, the revision petitioner/3rd defendant is before this Court.

6.The learned counsel for the petitioner submitted that the order of the trial Court is contrary to law and unjust. The 1st respondent filed the petition for herself and on behalf of the 2nd and 3rd respondents for summoning the Inspector of Matriculation Schools, Ramanathapuram, Coimbatore, to produce the documents mentioned in the petition. The 1st respondent representing the 2nd and 3rd respondents revoked the power given to the 1st respondent. In such circumstance, the petition filed on behalf of the 2nd and 3rd respondent is unsustainable. The trial Court without considering the fact allowed the petition mechanically and also without applying the mind on the case in hand. Order to summon the Inspector of Matriculation Schools, with documents mentioned in the petition cannot be sustainable as per law. The documents mentioned in the

petition are irrelevant to decide the issue involved in this case. Further, the suit is for the purpose, to frame the scheme for better management of the trust and he further reiterated the other grounds raised in the revision petition and thus pleaded to set aside the order of the trial Court and to allow the revision petition.

7. Even though notice was served on the respondent, none appeared on behalf of him.

8. Heard the learned counsel for the petitioner and perused the materials available on record.

9. The 1st respondent in the revision petition is one Saraswathy Velusamy, is the 1st plaintiff in the suit in O.S.No.107 of 2012. The 2nd is the Son of the 1st plaintiff- Saraswathy Velusamy. Her husband Velusamy, formed the 1st respondent trust namely, Ramasamy Memorial Educational Trust. The trust started the school namely S.V.Nagar Vidhyalaya Matriculation School. The 3rd defendant was appointed as a trustee by the founder i.e., the 1st plaintiff's husband-Velusamy. The 3rd defendant, attempted to alienate the suit property by preparing fraudulent

documents. So that as a wife, Son and Daughter of the founder, plaintiffs/respondents 1 to 3 filed the suit for framing the scheme. At the time of filing the plaint the 2nd and 3rd respondents herein gave a power of attorney in favour of the 1st plaintiff (1st respondent). Subsequently, it was revoked. But the 2nd and 3rd plaintiffs continued as a party to the suit. After examination of P.W.1 and 2, this petition is filed by the plaintiffs, to probabalize the case and to help the Court to frame a scheme for running the school. The trial Court considering the nature of the case and in order to give a chance to the parties, to produce all available evidences, in support of their case allowed the petition to summon the Inspector of Matriculation School, Ramanathapuram, Coimbatore, to give evidence along with petition mentioned documents. The arguments placed by the counsel for the revision petitioner/3rd defendant is not supported by any valid reason.

Because of revoking the power granted by the 2nd and 3rd plaintiffs, the 1st plaintiff did not lose her power to file the petition to summon the Inspector of Matriculation School, Ramanathapuram, Coimbatore, to give evidence along with documents, to probabalize her case. Therefore, I find no valid

reason in support of the revision petitioners contention. Further, I find no error in the order of the trial Court made in I.A.No.669 of 2017 in O.S.No.107 of 2012 dated 24.09.2019.

10.Hence, I confirm the order of the trial court made in I.A.No.669 of 2017 in O.S.No.107 of 2012 dated 24.09.2019 and further there is no merit in the Civil Revision Petition.

11.Accordingly, the Civil Revision Petition is dismissed. Consequently connected miscellaneous petition is closed. No costs.

22.12.2020

Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No
Jer

To

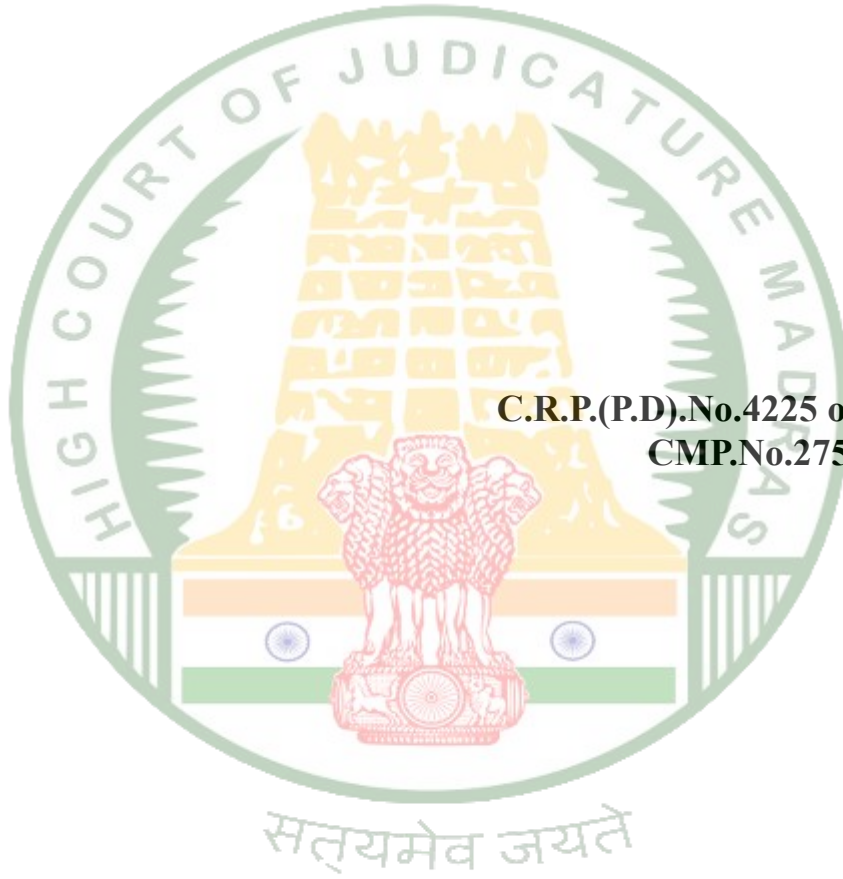
The Principal District Judge, Coimbatore,
Coimbatore District.

WEB COPY

C.R.P.(P.D).No.4225 of 2019

V.SIVAGNANAM.J,

Jer



**C.R.P.(P.D).No.4225 of 2019 and
CMP.No.27566 of 2019**

WEB COPY

22.12.2020