



WEB COPY



C.R.P.(PD).No.422 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.422 of 2021

and

C.M.P.No.3653 of 2021

1.Venkatesan

2.K.S.Ganesh

.. Petitioners

Vs.

1.Tamil Mani

2.B.Kumara Kurubaran

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 03.03.2020 passed by the learned Principal Subordinate Judge, Chengalpattu in I.A.No.1 of 2019 in O.S.No.71 of 2013.

For Petitioners : Miss.Dipthi Munoth
for Mr.K.V.Babu

For Respondents : Miss.P.Raja Shama Gayathri
for Mr.K.Govi Ganesan for R1

Mr.G.Mohammed Aseef for R2.



C.R.P.(PD).No.422 of 2021

ORDER

Challenge in this Revision is to the order of the trial Court dismissing the application in I.A.No.1 of 2019 filed by the petitioners herein seeking to implead themselves as parties to the suit in OS.No.71 of 2013.

2. The suit in OS.No.71 of 2013 was filed by the 1st respondent herein against the 2nd respondent seeking a declaration that the defendant has no right to convene meeting of the Trust Board of the Tirukalukundram Educational Research and Training Centre, restraining the defendant by a permanent prohibitory injunction from convening the meeting of the Trust Board and for costs.

3. During the pendency of the said suit, when the trial was about to commence, the petitioners have come up with the application to implead themselves, stating that the 1st petitioner has been authorised by one of the Trustees K.N.Balakrishnan to represent him in the Trust Board meetings and he had attended some of the meetings of the Trust Board in that capacity. As far as the 2nd respondent is concerned, it was claimed that he is a life Trustee and he was appointed as a Trustee under the Trust deed dated



C.R.P.(PD).No.422 of 2021

12.12.1996. Therefore, in that capacity he is necessary party to the suit.

WEB COPY

4. This application was opposed on the ground that the 1st petitioner is not the representative of K.N.Balakrishnan and therefore, he has no right to maintain the application independently and the 2nd petitioner has resigned as a Trustee on 06.06.2005. The trial Court accepted the defence and dismissed the application.

5. I have heard Miss.Deepthi Munoth, learned counsel appearing for the petitioner, Miss.P.Raja Shama Gayathri for Mr.K.Govi Ganesan, learned counsel appearing for the 1st respondent and Mr.G.Mohammed Aseef, learned counsel appearing for the 2nd respondent.

6. The trial Court had dismissed the application mainly on the ground that the 1st petitioner is only a proxy for one K.N.Balakrishnan and therefore he cannot independently maintain the application to implead himself. It is now brought to my notice that the said K.N.Balakrishnan who is the father-in-law of the 1st petitioner is no more. Hence the 1st petitioner cannot be



C.R.P.(PD).No.422 of 2021

considered to be a necessary party or a person having interest in the affairs of the Trust. The dismissal of the application as regards 1st petitioner has to be necessarily upheld.

7. As far as the 2nd petitioner is concerned, it is stated that he has resigned on 06.06.2005. There is no proof for such resignation. It is seen from the records that the 2nd petitioner has attended the meetings of the Trust on 16.05.2013 and 12.06.2013. He is also one of the plaintiffs in the suit in OS.No.704 of 2013, wherein, the Trust itself is a plaintiff. Considering the above, I do not think that the trial Court was right in dismissing the application impleading the 2nd petitioner Mr.K.S.Ganesh as party to the suit.

8. No doubt, the counsel for the respondents would contend that the suit is one between the 1st and 2nd respondents and therefore the petitioners cannot claim to be necessary parties. The prayers in the suit are relating to the Trust. The 1st prayer is for declaration that the defendant in the suit has no right to convene meetings of the Trust the 2nd prayer is for permanent prohibitory injunction restraining him from convening meetings. The affairs



C.R.P.(PD).No.422 of 2021

of the Trust will be necessarily affected by the pendency of the suit. Hence, the other Trustees are necessary parties. Therefore the conclusion of the trial Court that the other Trustees are not necessary parties, since the injunction relief is sought for only against the 2nd respondent herein cannot be accepted.

9. Accordingly, the Revision is **partly allowed**. The application in IA.No.1 of 2019 will stand allowed in respect of 2nd petitioner therein i.e., Mr.K.S.Ganesh. He is impleaded as 2nd defendant in the suit. The plaintiff will have to carryout necessary amendments and proceed with the suit in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

29.11.2021

dsa
Internet : Yes
Index : No
Speaking order



WEB COPY



C.R.P.(PD).No.422 of 2021

R.SUBRAMANIAN, J.

dsa

To

The Principal Subordinate Judge, Chengalpattu.

C.R.P.(PD).No.422 of 2021

29.11.2021