

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.3837 of 2016

V.Ramamurthy

...

Petitioner/Petitioner/
Respondent No.9

Vs.

1.M.Venkatesh

2.V.Varadaraj

...

Respondents 1 & 2 /Respondents/
Petitioners

3.M/S.P.S.Govindasamy Naidu & Sons
Charities rep. By it Managing Trustee,
V.Gopalakrishnan, Post Box No.1609,
Peelamedu, Coimbatore – 641 004.

4.I.Gopalakrishnan

5.G.R.Karthikeyan

6.G.Rangaswamy

7.Dr.Ganesh Devaraj

8.D.Lakshminarayanaswamy

9. V.Rajan

10.Naresh Rajan

...

Respondents 3 to 10 /Respondents/
Respondents.

PRAYER : The Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the order and decretal order dated 16.09.2016 passed in I.A.No.323 of 2015 in I.A.No.943 of 2012 in O.S.No.145 of 1935 on the file of the Principal Subordinate Judge, Coimbatore.

For Petitioner : Mr.R.Singaravelan, Senior Counsel

For M/S.V.S.Jagadeesan

For Respondents : Mr.Arvinth Viveks for RR1 & 2

: Mr.Abishek Jenasanan
for RR3,4,5 &9.

: No appearance for RR6,7,8 & 10

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed for setting aside the order of the learned Principal Sub Judge, Coimbatore dated 16.09.2016 passed in I.A.No.323/2015 in I.A.No.943/2012 in OS.No.145/1935.

2. The Civil Revision Petitioner is the third party and the impugned petition was filed by the Civil Revision Petitioner to get himself impleaded as a party to the proceedings in I.A.No.943/2012. The learned trial Judge has dismissed the petition by stating that he is not a necessary party. Aggrieved over that the petitioner has filed this Civil Revision Petition.

3. The arguments of Mr.R.Singaravelan, the learned senior counsel for the petitioner, Mr. Arvinth Viveks, the learned counsel for the respondent 1 and 2 and Mr.Abishek Jenasanan, the learned counsel for the respondents 3, 4, 5 & 9, heard.

4. The learned senior counsel for the petitioner submitted that for the management of the third respondent Trust a scheme decree has been passed as early as on 29.02.1936. Since the petitioner who is an old student of one of the educational institutions run by the Trust, is interested in the better management of the Trust and its activities has filed the petition to implead himself in the petition already in I.A.No.943/2012 by some of the old students. The said petition was filed to amend the scheme decree in a way amenable to the inclusion of the persons belonging to other communities also in the Board of Trustees.

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5. The learned counsel for the respondents 3,4,5 & 9 have submitted that this petition has been filed in order to drag the proceedings and the affairs of the Trust is going as smooth as it has always been. It is further submitted that the Civil Revision Petitioner is neither a necessary party nor a proper

party for the proceedings. It is further prayed by the learned counsel for the respondents that a short time should be granted for filing counter.

6. Since the Civil Revision Petition has been pending for years together and the respondents have not opted to file any counter till now and further the counter filed by the respondents in the party implead petition itself is available on record, I feel that it does not require any more counter. Therefore time is not granted on that score.

7. At the beginning of the arguments itself, the learned counsel for the respondents submitted that a few of the Trustees have died and the legal heirs should be impleaded. Since it is only a petition filed to implead a third party and there are other trustees on record, the Trust is properly represented for the purpose of this petition and hence impleading the Legal Representatives for this petition is not necessary.

8. A concern expressed by the respondents that if this petitioner is allowed to be impleaded as a party, it will open the flood gates for similar such old students or any person from the public to file similar petitions to get themselves impleaded as parties and that would cause the matter pending

indefinitely.

9. Though it is true that allowing a third person to be impleaded as a party would prompt others also to act in a similar fashion, the passage of time would show that no other person have filed a similar such application till now. Though this petition has been filed in the year 2015 and the main I.A.No.943/2012 is of the year 2012 and they were pending all many years, no other person had turned up to file a similar such petition. Even if this petitioner is allowed to be impleaded as a party, his genuine interest if any involved in the matter can be tested during the main Interlocutory Application proceedings itself. The said petition is also pending for long because of the pendency of this Civil Revision Petition. Unless the proceedings are allowed to proceed, the interest of justice can not be served.

10. Granting permission for the petitioner to be impleaded as a party will not mean that the Court has accepted the contentions of the Civil Revision Petitioner. Because the matter involved in I.A.No.943/2012 is going to be decided only on merits. The learned trial Judge is always at liberty to decide about the genuineness of the interest expressed by this petitioner during the proceedings of the main Interlocutory Petition.

11. The learned counsel for the respondents submitted that the learned trial Judge has made an observation in the impugned order that this petitioner is neither a proper nor a necessary party. But such a finding of the learned trial Judge is prematured one for the reason that such a finding has been arrived without receiving considering the counter of this petitioner in the main Petition. The learned trial Judge is still at liberty to decide all the issues that might be brought in the counter filed by this petitioner, in the event of his impleadment as a party to its proceedings. In the interest of justice and in order to facilitate the proceedings to progress further, I feel this petition is to be allowed.

In the result this present Civil Revision Petition is **allowed** and the order of the learned Principal Sub Judge, Coimbatore dated 16.09.2016 passed in I.A.No.323/2015 in I.A.No.943/2012 in OS.No.145/1935, is hereby set aside. No costs.

26.07.2021

Speaking/Non-speaking

Index : Yes/No

Internet : Yes/No

jrs

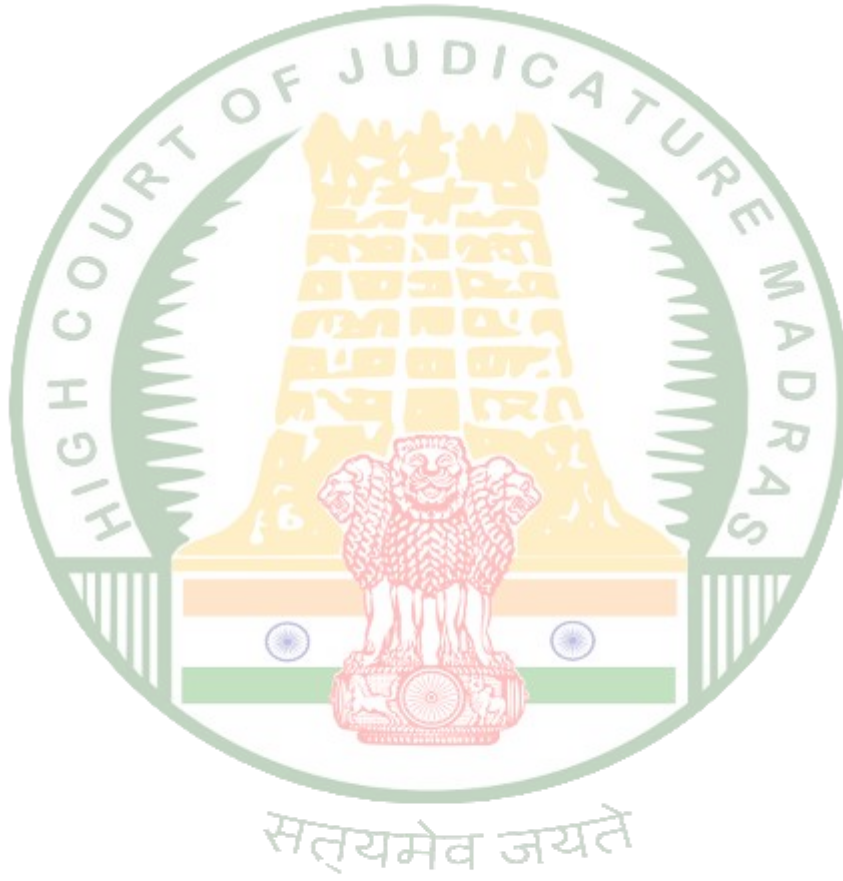


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To

1.The Principal Sub Judge, Coimbatore.

2.The Section Officer,
V.R.Section,
High Court, Madras.



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R.N.MANJULA,J.

jrs



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