



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the First day of July Two Thousand and Twenty One

PRESENT

The Hon'ble Mrs. Justice T.KRISHNAVALLI

CRL MP (MD) No.3414 of 2021

IN

CRL RC (MD) No.340 of 2021

1 M.THANGAMUTHU
2 P.KRISHNAMOORTHY
3 T.KAYALVIZHI
4 T.KOWSALYA
5 T.THANGAKATHIRAVAN

... PETITIONERS/PETITIONERS

Vs

1 THE REVENUE DIVISIONAL OFFICER /
SUB DIVISIONAL MAGISTRATE,
DINDIGUL, DINDIGUL DISTRICT.

2 THE SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT, DINDIGUL.

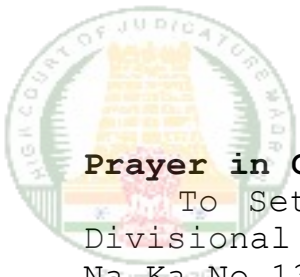
3 THE THASILDAR,
NILAKOTTAI,
DINDIGUL DISTRICT.

4 THE INSPECTOR OF POLICE,
BATLAGUNDU POLICE STATION,
DINDIGUL DISTRICT.

5 N.VIJAYAKUMAR
6 S.NAVEEN NAGENDRA SASIKUMAR
7 S.SENTHILKUMARI
8 J.NITHYA
9 M.GANESAN
10 G.SAKTHIVEL
11 S.SANTHINI
12 S.JEYA

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to grant an order of AD INTERIM STAY of the operation of the impugned proceeding issued by the 1st Respondent Revenue Divisional Officer/Sub Divisional Magistrate in Na./Ka. 1387/2020/ A1 dated 17.12.2020 and all Proceedings in furtherance thereof, pending disposal of the Criminal Revision.



Prayer in CRL RC (MD) No. 340/2021 :

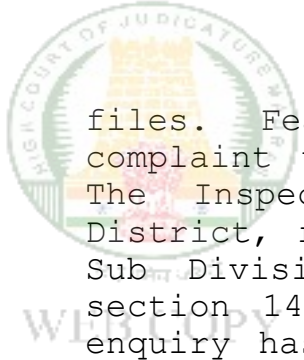
To Set aside the order passed by the 1st Respondent Revenue Divisional Officer / Sub Divisional Magistrate in Na.Ka.No.1387/2020/A1 dated 17.12.2020.

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Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr. Isaac Mohanlal for M/s. Isaac Chambers, Advocate for the petitioner and of Mr. A. Robinson, Government Advocate (Criminal side) for the Respondents 1 to 4, Mr. S. Singaravelan, Senior Counsel for Mr. D. Selvanayagam, Advocate for Respondents 5 to 8 and Mr. G. Prabhu Rajadurai, Advocate for the Respondents 9 to 12, the Court made the following order:-

This Criminal Miscellaneous Petition is filed seeking stay of the operation of the proceedings issued by the 1st respondent Revenue Divisional Officer/Sub Divisional Magistrate in Na.Ka.1387/2020/A1, dated 17.12.2020 and all proceedings in furtherance thereof, pending disposal of the Criminal Revision.

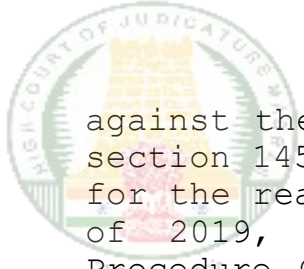
2. The petitioners herein are the Trustees of a Registered Trust namely M/s. Amutham Foundation, Batlagundu and it was registered under Document No. 18/2015, dated 09.05.2014 in the office of the Sub Registrar, Batlagundu, Dindigul. The Trust has established a School namely First Step Public School, Kanavaipatti, Batlagundu (herein after called as School) in the year 2015. The respondents 5 and 6, who were the friends of the 3rd petitioner herein proposed to extend their financial support to the Trust towards establishment of the School in the year 2014. Taking into consideration of their contribution, it was resolved to admit them as shareholders of the School. Thereafter, the respondents 5 and 6 started demanding that they should be admitted as Trustees, as a consequence of the School having taken huge amounts as donations from them. As their request was rejected, they have been unnecessarily interfering with the administration of the School and Trust. The respondents 5 and 6 appeared to have conducted a General Body Meeting on 14.11.2015, fraudulently and illegally, resulting in passing of some resolutions with forged signature of the Managing Trustee. In furtherance of the fraudulent act, a Supplementary Trust Deed was also created, by including them as Trustees and the same was registered as document on 16.12.2015. A suit was also filed in O.S No. 06 of 2015 and the said suit was also transferred and pending in O.S No. 77 of 2018 on the file of the District Munsif, Nilakottai. After knowing the fraudulent registration and forgery of the documents, a police complaint was preferred by the Trust, on 04.02.2016 against the respondents 5 to 12. The Trust has also filed a civil suit in O.S No. 31 of 2016 on the file of the District Munsif, Nilakottai, for declaration of the resolution of the rival group as null and void and the same is pending. Subsequently, the respondents 5 to 12 have forcibly entered into the School premises, on 30.03.2019 with their henchmen and held out threats to the trustees and taken away certain



files. Fearing for their safety, the trustees have given a police complaint to take action against the respondents 5 to 12. The Inspector of Police, Batlagundu Police Station, Dindigul District, referred to the complaint to the 1st respondent, who is a Sub-Divisional Magistrate and proceedings were conducted under section 145 of Cr.P.C. The 1st respondent, after conducting the enquiry has concluded that in view of the pendency of litigations both A-party and B-part are entitled to jointly administer the affairs of the School and the Inspector of Police, Batlagundu was directed to maintain law and order in order to prevent any untoward incident. Challenging the same, the 3rd petitioner herein filed WP (MD)No.31 of 2011 before this court. This court, by order, dated 31.03.2021 dismissed the writ petition holding that the writ petition is not at all maintainable and only criminal revision is maintainable with liberty to the petitioner therein to work out her remedies in the manner known to law. Hence, the petitioners are before this court with this CrI.RC(MD)No.340 of 2021. Along with the criminal revision, the petitioners filed CrI.MP(MD)No.3414 of 2021 seeking for stay of the proceedings of the 1st respondent herein as stated above.

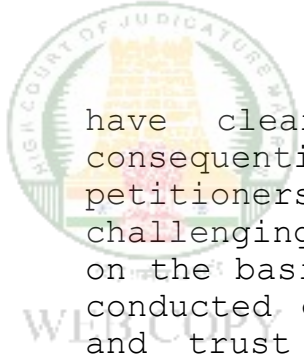
3. Heard Mr. Isaac Mohanlal, learned Senior counsel appearing for the petitioners, Mr. A. Robinson, the learned Government Advocate (Criminal side) appearing for the respondents 1 to 4, Mr. S. Singaravelan, learned Senior Counsel for the respondents 5 to 8 and Mr. G. Prabhu Rajadurai, the learned counsel appearing for the respondents 9 to 12 and also perused the materials available on record.

4. The learned Senior counsel appearing for the petitioners argued that the respondents 5 and 6 are not the trustees of the school and they are only shareholders of the school and the respondents 5 and 6 forcibly entered into a resolution, dated 05.07.2015 declaring the existing trustees and the shareholders as trustees and the above resolution was not given effect and the 5th respondent took away all the original trust deeds and interfered into the administration of the school and hence, complaint was given as against the 5th and 6th respondents and after due enquiry, the 5th and 6th respondents undertook that they would not repeat with such illegal activities and hence, the above complaint was closed and the respondents 5 and 6 created a forged supplementary trust deed and filed a suit O.S No.6 of 2016 on the file of the Principal District Judge, Dindigul, seeking the relief of permanent injunction restraining the respondents therein from interfering with the rights to manage the trust and the school and for the creation of forged supplementary deed, a complaint was given as against the respondents 5 to 12 and the trustees filed O.S No.31 of 2016 before the District Munsif, Nilakottai for declaration of the supplementary trust deed as null and void and consequential relief of injunction and the respondents 5 to 12 gave a complaint against the corresponding secretary and watchmen and they gave the above complaint with ulterior motive to stultify their complaint given



against them and no situation warranted for initiating action under section 145 of the Criminal Procedure Code, the 5th respondent Police for the reason best known to him, had registered FIR in Crime No.124 of 2019, dated 30.03.2019 under section 145 of the Criminal Procedure Code against the respondents 5 to 12 as A party and the Trustee of the petitioner Trust as B party and there is not even a single iota of allegation with regard to any land or property in the complaint on either side and no action was taken on the complaint given by the petitioners and on the basis of the FIR in Crime No.4 of 2019, enquiry was conducted and the petitioners have given explanation with regard to the entire issues and pendency of the civil suits in this matter of administration of the trust and school, but the 1st respondent passed the impugned order directing the A Party and B party to jointly administer the school till the disposal of pending civil suits and further directed the 4th respondent police to supervise, not to allow any law and order problem in the school and the 1st respondent passed the order in complete violation of the principles of natural justice and no preliminary order was passed and the impugned order is passed based on the void documents, which are subject matter in the suit and the 1st respondent ought not to have entertain the complaint under section 145 of the Criminal Procedure Code and there was no situation warranted to conduct enquiry and passed order under section 145 of the Criminal Procedure Code, when there is no *iota* of allegation with regard to any land or any dispute with regard to any breach of peace or any law and order dispute and it is a purely a civil dispute, which has to be adjudicated in the pending civil suits and in view of the impugned order and subsequent dismissal of the writ petition on maintainability, the respondents are taking efforts to enter into the school campus and the school had large number of admission in the initial years, however, the same came to be drastically reduced recently in view of the disputes created by the respondents 5 to 12 and the entire reading of the suit filed by them and complaints thereof would prove that the respondents 5 to 12 were never in administration of the school and while this being so, the 1st respondent ought not to have allowed them to be in administration of the school till the disposal of the suits and unless the impugned order is stayed great prejudice would be caused to the petitioners and prays that stay may be granted.

5. On the other hand, the learned Senior counsel appearing for the respondents 5 to 8 argued that the trust deed was created on 09.05.2014 and though it is a public trust, the said trust has not doing any public interest-oriented activities for the welfare of the common people and the activities are questionable under section 92 of the Civil Procedure Code and are against the public interest, as the petitioners faces a huge financial crisis, after commencement of the public trust and they entered into supplementary trust deed, dated 16.12.2015 by which clause 4 and 5 of the original trust deed, were amended to include the respondents 5 to 12 on payment of huge amount to the public trust called Amudham Foundation, which was started by the petitioners herein and as the petitioners themselves

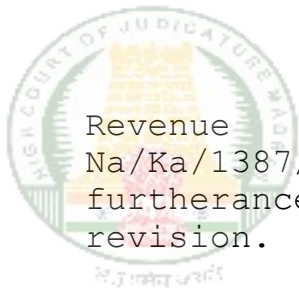


have clearly admitted their inaction and liability and the consequential controversies and misunderstanding between the petitioners and the respondents 5 to 12, they are estopped from challenging the order passed by the RDO under section 145 Cr.P.C and on the basis of FIR in "Crime No.124 of 2019, the revenue officials conducted enquiry with regard to the administration of the school and trust from the date of supplementary trust deed and the respondents have also been taking part of the administration of the school administration in the trust and the attempt of the petitioners have created unrest and loss of peace in the locality and in view of the supplementary trust deed, the petitioners are estopped from challenging the order passed under section 145 of the Criminal Procedure Code and already the petitioners admitted that the respondents 5 to 12 have contributed huge sum of money to the public trust and they cannot prevented the respondents 5 to 12 from taking part in the administration of the trust and school and if stay is granted, it not only affect the interest of the respondents 5 to 12, but also the public interest and the terms and tenor of the supplementary trust deed itself and the stay petition has to be dismissed.

6.The petitioners started that Amudham Foundation and a trust deed was created on 09.05.2014 and the trust has started a school called 'First Step Public School' under the correspondent-ship of the 3rd petitioner. The contention of the respondents 5 to 12 is that the petitioners faced a huge financial crisis and the petitioners entered into a supplement trust deed with the respondents 5 to 12 and the respondents 5 to 12 gave huge amount and as per the supplementary trust, they are entitled to take part in the administration. Due to misunderstanding between petitioners and the respondents 5 to 12 , a criminal complaint was given and FIR was registered in Crime No.129 of 2019 and on the basis of the above FIR, the 1st respondent conducted enquiry and passed the impugned order. Now the petitioners filed this Criminal Revision questioning the same.

7.The main contention of the petitioners is that with regard to dispute of the trust, already civil suits were pending and hence, the 1st respondent has no power to pass the order under section 145 of the Criminal Procedure Code. In the main Criminal Revision, it is to be decided whether the order passed by the 1st respondent is valid or not by way of hearing the arguments and perusal of records. At this stage, the merit of the case cannot be decided. It is seen that the 1st respondent ordered both the parties permitting to take part in the administration of the trust. Hence, the petitioner filed Civil Revision Petition. Questioning the same stating that in respect of the administration of trust, civil suits were pending, the 1st respondent has no power to pass the impugned order.

8.Hence, this court is inclined to allow the criminal miscellaneous petition. Accordingly, **interim stay** is granted for the operation of the impugned proceedings issued by the 1st respondent



Revenue Divisional Officer/Sub Divisional Magistrate, in Na/Ka/1387/2020/A1, dated 17.12.2020 and all proceedings in furtherance thereof, till the disposal of the main criminal revision.

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01/07/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/ litigant concerned.

TO

- 1 THE REVENUE DIVISIONAL OFFICER /
SUB DIVISIONAL MAGISTRATE,
DINDIGUL, DINDIGUL DISTRICT.
- 2 THE SUPERINTENDENT OF POLICE,
DINDIGUL DISTRICT, DINDIGUL.
- 3 THE THASILDAR,
NILAKOTTAI,
DINDIGUL DISTRICT.
- 4 THE INSPECTOR OF POLICE,
BATLAGUNDU POLICE STATION,
DINDIGUL DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to Mr.D.SELVANAYAGAM, Advocate (SR-4294[I] dated 01/07/2021)
+1 CC to M/s.ISAAC CHAMBERS, (SR-4299[I] dated 02/07/2021)
+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-4300[I] dated 02/07/2021)

ORDER IN
CRL MP(MD) No.3414 of 2021 IN
CRL RC(MD)No.340 of 2021
Date :01/07/2021