



A.No.3204 of 2016 in C.S(D).No.21213 of 2016

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P.VELMURUGAN,J.

This application has been filed under Section 92 to grant leave to institute the above suit.

2. The learned Counsel for the applicants would submit that the 1st respondent is a public trust and the first applicant was the founder of the 1st respondent trust. The second applicant is also an interested person and was employed in the said institution. The respondents 2 to 4 indulged in various illegal activities against the interest of the trust namely Academic Indiscipline, Financial Indiscipline and Administrative Indiscipline. Therefore, the applicants have filed the suit for the following reliefs;

a. Pass necessary directions removing the present Board of Trustees, viz., defendants 2 to 4 and pave the way for a fresh Board of Trustees of the first defendant trust, to be chosen by this Court in terms of the deed of trust and its amendments;

b. Direct the defendants 2 to 4 to render accounts of the first defendant trust from 2007 till the date of taking of accounts;



c. Appoint a receiver / administrator to take over the affairs of the first defendant Trust till such time as this Court appoints a new Board;

d. Appoint an auditor to go through the accounts of the first defendant Trust and report on the instances of misappropriation and breach of Trust.

e. Pass necessary directions in the form of a scheme for the proper running of the first defendant Trust as this Court may deem fit and proper including the retention of the existing movable and immovable properties of the first defendant Trust.

3. Since the first respondent is a public charitable trust, as per Section 92 (1) of CPC two or more interested persons of the Trust have to get leave from the Court to institute a suit. The applicants have made out the requirements of Section 92 of CPC and therefore, they filed the suit and in order to get leave, they have filed the present application.

4. Though the matter is pending from the year 2016 and sufficient opportunities extended, the respondents are not interested to put forth their submissions.



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WEB COPY 5. Heard the applicants and perused the records.

6. The respondents have filed counter. In the counter it is contended that the applicants have specifically stated that the applicants filed the suit seeking to settle the personal vendetta against the respondents. There is no relief is being sought for in public interest or in the interest of the administration of the Trust. The applicants have not impleaded the management of the Trust as a party to the present suit. The suit is hit by non-joinder of necessary parties. The second applicant was a driver employed by the 1st respondent Trust and Management and since the first respondent Trust taken action against the second applicant for his omission and commission and terminated him with immediate effect from the employment of the 1st respondent Trust on 07.01.2015, the second applicant raised a dispute before the Labour Court in I.D.No.410 of 2015 on the file of the II Additional Labour Court, Chennai, under Section 2A(2) of the Industrial Disputes Act, 1947. The said proceedings were being contested by the first respondent trust and management. Now the second applicant is attempting to redress his personal grievance with the first respondent trust and management, which is College administered by the first respondent Trust and the second applicant is not in any



manner concerned with the affairs of the first respondent trust and he is only concerned in protecting and taking forward his personal interest in securing his employment once again or some sort of monetary compensation. The first applicant, the founder trustee and he had appointed the 3rd and 4th respondents as trustees, at the time of constitution of the first respondent Trust. The first applicant is also a relative of the second respondent, being the son of the uncle of the second respondent. The first applicant and the second respondent having regard to the fact that the first applicant was his nephew, allowed him to be the founder of the first respondent Trust. At no point of time, the first applicant being involved in any serious manner with the affairs of the first respondent trust. Therefore, for the personal vendetta, they have filed the suit and also filed this application seeking grant of leave. Further, no breach of trust also involved and therefore, Section 92 of CPC would not attract and hence the suit itself is not maintainable. Therefore, the application has to be dismissed.

7. Admittedly the first respondent is a public charitable Trust and the first applicant was the founder of the Trust and the second applicant was one of the employees in the Trust. Though in the plaint, they have stated various allegations like administrative indiscipline, academic indiscipline and financial indiscipline, the



applicants have filed the suit for the above said reliefs. Since the first respondent is a public charitable Trust, as per Section 92 of CPC, either the Advocate General or two or more of the interested persons in the Trust can file the suit.

8. A reading of the averments in the plaint reveal that the applicants are interested persons. Whether the respondents 2 to 3 have indulged in the alleged indisciplines or not, can be decided only in the suit after recording evidence. However, the applicants have made certain allegations against the respondents 2 to 4. Therefore, *prima facie* there is allegations against the respondents 2 to 3 and since, the first respondent is a public charitable Trust and the applicants are interested persons, they can very well file the suit.

9. This Court does not find that the applicants have filed the suit for personal vendetta and it is filed only on the public interest. The first applicant is the founder of the trust and according to the applicants, the respondents 2 to 4 have acted against the interest of the Trust and committed breach of trust and therefore, *prima facie* case is made out to grant leave.



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10. Though the defendants 2 to 3 raised various objections in the counter, it is well settled proposition of law that while granting leave, the Court has to see the averments in the application and the object of the Trust and also has to see whether the Trust is a public charitable Trust, whether the applicants are interested persons and whether the applicants made out the requirements under Section 92 of CPC and the suit is not filed for personal vendetta.

11. A reading of the plaint averment reveals that *prima facie* case is made out and the applicants are entitled to the relief sought for in this application. Accordingly this application is allowed.

12. Registry is directed to take the plaint on file, if it is otherwise in order.

29.03.2022

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