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A.No.8714 of 2019 in
C.S.(D).No.114972 of 2019

Reserved on : 05.04.2022

Delivered on : 08.04.2022

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P.VELMURUGAN, J.

This application has been filed by the plaintiffs seeking leave of this Court to institute the above suit under Section 92 of Civil Procedure Code against the respondent/defendant.

2 It is the contention of the learned counsel appearing for the applicants/plaintiffs that the first applicant is a society and applicants two and three are the President and Secretary of the first applicant society. The society functions for the welfare and upliftment of the members of Arya Vysya community. One of the members of their community viz. Sri Oletti Ranganayaki Ammal executed a will dated 19.03.1904 and appointed the trustees of the defendant as the executors and trustees of her will and income from the said properties to be utilised for charitable purpose.



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3 Learned counsel appearing for the applicants/plaintiff would contended that several societies were attached with the respondent/defendant Pachayappas Trust and the first plaintiff society also under the control of the respondent/defendant. A perusal of the Annual Report of the Interim Administrator and the report of the Auditor show that there are certain irregularities, which necessarily has to be rectified. Therefore the applicants/plaintiffs filed the present suit to frame a suitable scheme for the better administration and management of the estate of Oleti Ranganayakiammal Estate, which is being managed by the respondent/defendant.

4 Heard the learned counsel on either side and perused the materials available on record.

5 It is seen that the applicants stated that from the Annual Report and the Audit Report it is clear that there are certain irregularities in the management of the first plaintiff society and therefore it is necessary to frame a scheme for the better management of estate of Oleti Ranganayakiammal Estate, which is being managed by the respondent/defendant.



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6 A perusal of the statements made in the affidavit filed in support of this application would go to show that from the Annual Report of the Interim Administrator of the Pachaiyappas Trust the defendant herein and the Audit Report it is clear that there are certain irregularities in the management of the first applicant/first plaintiff society. Therefore there is *prima facie* case to grant leave. As per Section 92 of CPC, if there is any grievance with regard to the functions of a Trust created for charitable purpose, two or more persons having an interest in the trust may institute a suit after obtaining leave of the Court. The real test for the applicability of Section 92 of the code is to see whether the suit is fundamentally on behalf of the public for vindication of a public right and not for vindication of an individual or personal right. In this case, no personal vindication has been established.

7 In view of the above observations, leave is granted.

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

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Pre-delivery Order in
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08.04.2022