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A.No.7916 of 2019 in
C.S.(D).No.115123 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. V.Thiruvangadathan Chetti executed a will dated 29.11.1941 and income from the said properties to be utilised for charitable purpose. The said will was also probated by this Court in O.P.No.109 of 1942. In the said will, the testator appointed the Administrator General and Official Trustee of Madras High Court, the first respondent/1st defendant as executor.



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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 would go to show that no money has been shown to have been received from the 1st respondent/1st defendant, which clearly shows that the first respondent/1st defendant is not administering the estate of Sri.V.Thiruvangadathan Chetti and the benefits are not being passed on the poor vysya community students in the form of scholarship. Neither the first defendant nor the second defendant seem to be interested in maintaining the estate of the testator, since both are overburdened with so many institutions. Therefore the applicants/plaintiffs filed the present suit to frame a suitable scheme for the better administration and management of the estate of Sri.V.Thiruvangadathan Chetti, which is being managed by the respondents/defendants.

4 Learned counsel appearing for the defendants would submit that even in the will itself the testator Sri.V.Thiruvangadathan, appointed the first defendant



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as Executor, which clearly shows the interest of the testator. The first respondent also after getting permission and approval from this Court discharging its duties. Therefore, the plaintiffs cannot file the present suit against the defendants.

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

6 It is seen that the applicants stated that from the Annual Report it is clear that no money has been shown to have been received from the 1st respondent/1st defendant, which clearly shows that the first respondent/1st defendant is not administering the estate of Sri.V.Thiruvangadathan Chetti properly and therefore it is necessary to frame a scheme for the better management of estate of Sri.V.Thiruvangadathan, which is being managed by the defendants.

7 It is seen that the testator V.Thiruvangadathan bequeathed his properties to the trust under the will dated 29.11.1941 and under the said will the Administrator General and Official Trustee of this Court has been appointed as Executor. Further as rightly contended by the learned counsel for the respondent/defendants, the first respondent/defendant is discharging its duties



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after obtaining permission and leave of this Court as and when required. Even though it attached with the second respondent/second defendant, it is true that the estate of the testator is being managed by the Administrator General and Official Trustee appointed by this Court. The Administrator General and Official Trustee of this Court is managing the estate and discharging its duties after getting approval from this Court as and when required. Therefore, the present suit against the defendants cannot be instituted and hence leave for the same cannot be granted.

8 In view of the above observations, this application is dismissed.

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Pre-delivery Order in
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