



S.A.No.1002 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2022

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

S.A.No.1002 of 2022

G.Manickavelu

..Appellant

Vs.

1.The Joint Director of Health Department,
Thiruvavoor.

2.The Inspector of Police,
Needamangalam.

3.The Revenue Divisional Officer,
Mannarkudi.

4.The Director of Health Department,
Chennai.

5.The Superintendent of Police,
Thiruvavoor.

6.The District Collector,
Thiruvavoor.

Prayer: Second Appeal filed under Section 100 CPC, to set aside the judgment and decree dated 15.07.2022 in A.S.No.33 of 2017 on the file of the Subordinate Judge, Mannarkudi, confirming the judgment and decree dated 08.09.2017 in O.S.No.22 of 2015 on the file of the District Munsif, Needamangalam and allow the appeal.



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For Appellant : Ms.A.L.Ganthimathi

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JUDGMENT

The Second Appeal is directed as against the judgment and decree passed in A.S.No.33 of 2017 dated 15.07.2022 on the file of the Subordinate Judge, Mannarkudi, thereby confirming the judgment and decree passed in O.S.No.22 of 2015 dated 08.09.2017 on the file of the District Munsif, Needamangalam, thereby dismissing the suit filed for permanent injunction.

2. The brief case of the appellant is that he is a registered practitioner of Ayurvedic Medicine. He studied Bachelor of Ayurvedic Medicine and Surgery from a College by name Devghar Vidhyapith at Bihar in the year 1997 and obtained the degree certificate. He also studied two years integrated course of Ayurveda and obtained degree certificate in the year 1997. After completion of the said course, he had registered himself as a Medical Practitioner before the State Council of Ayurvedic and Unani Medicines at Bihar. He was issued with a certificate under memo No.8639. Thereafter, he applied for transfer of address of practice to Needamangalam of Thiruvavarur District, which was accepted by the State Council of Bihar. Therefore, he is entitled to practice Ayurveda Medicine and he is also entitled to prescribe Allopathic Medicine. While being so, the respondents 1 to 3 inspected his clinic and lodged a complaint.



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Thereafter, FIR was registered in 128 of 2015 for the offence under Section 420 IPC r/w Section 15(2)(3) of Indian Medical Council Act, 1956, and he was arrested and remanded to judicial custody. Thereafter, he was released on bail and he filed a suit for injunction restraining the respondents 1 to 3 from interfering his practice as practitioner of Ayurvedic Medicine at Needamangalam. It was dismissed and confirmed by the first Appellate Court.

3. The learned counsel for the appellant would submit that the appellant obtained degree of a prescribed qualification to practice as Ayurveda practitioner and the same was marked as Ex.A1, it was also registered and the registered certificate was marked as Ex.A4 in the State Ayurveda Council of Bihar. Thereafter, he obtained permission for transfer of place of practice from Bihar to Needamangalam, which was marked as Ex.A5. Even then the Courts below, without considering the above, dismissed the suit on the ground that the suit itself is barred under Section 41 of Specific Relief Act. Hence, she raised the following substantial questions of law.

i) Whether the Courts below are correct in disbelieving the documents under Exs.A1 to 5 which are the qualifications and certificates issued by the recognized institution?

ii) Whether the Courts below erred in finding that



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the suit is hit by Section 41 of the Specific Relief Act?

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4. On perusal of documents revealed that the appellant has no valid degree as required under Indian Medical Council Act to practice Allopathic Medicine. He has no right to seek for relief of permanent injunction as against the respondents since it is barred under Section 41 of Specific Relief Act. The appellant has registered himself as a medical practitioner under the Indian Medical Council Act. Therefore, he is not entitled to practice Allopathic Medicine. Ex.A1 is a degree certificate issued by Devghar Vidhyapith College at Bihar, and it is a fake document and the period for which the course said to have been completed by the appellant has not been mentioned. If it is a degree certificate it shall contain the name of the University to which the College is affiliated. The degree certificates are issued under the name and seal of the concerned University or Autonomous Deemed University. Whereas Ex.A1 was issued under the name of the College in which he studied at Bihar.

5. In fact, he also categorically admitted during the cross examination that after completion of 12th standard school education, he did not pursue any degree course. In fact, he had written his 12th standard examination in private mode and not in the regular course. Therefore, he is not eligible to practice



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under any stream and as such, the second respondent herein registered FIR in Crime No.128 of 2015 for the offence under Section 420 IPC r/w Section 15(2)(3) of Indian Medical Council Act. Therefore, this Court finds no substantial questions of law involved in this appeal and it is liable to be dismissed.

6. Accordingly, the second appeal stands dismissed and the judgments passed by the Courts below are hereby confirmed. No costs.

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Speaking/Non-speaking order
Index : Yes/No
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To

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- 3.The Revenue Divisional Officer,
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- 4.The Director of Health Department,
Chennai.
- 5.The Superintendent of Police,
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- 6.The District Collector,
Thiruvavoor.
- 7.The Subordinate Judge,
Mannarkudi.
- 8.The District Munsif,
Needamangalam.

G.K.ILANTHIRAIYAN.J,

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