



CRP (PD) No. 2994 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No. 2994 of 2021

and

CMP No. 21336 of 2021

1. St. Anthony's Educational Trust
Rep. by Administrator
Mr.Vincent Arockiaraj
Office having at
Tiruvarur Road
St. Antoniyar Nagar
Thiruthuraipoondi Taluk and Munsif
Thiruvarur District.
2. Mr. P.Vincent Arockiaraj
3. C.Helen Immaculate
4. V.Ketharine Sheril
5. V.Samrojar

... Petitioners/Respondents/Defendants

Vs

1. Nelson Surya
2. C.Hoseph Charles



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3. K.Vairavamoorthy
4. A.Antony Ammal
5. S.Xavier
6. P.Maria Santha Clament

... Respondents/Petitioners/Plaintiffs 1 to 6

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 31.08.2021 made in I.A.No. 185 of 2019 in U.F.O.S.No. Un-numbered of 2019 on the file of Principal District Court, Thiruvarur.

For Petitioners : Mr. M.Vimal Bobby Crimson

ORDER

Challenge in this Civil Revision is to the order of the trial Court, namely, Principal District Court, Thiruvarur, allowing an application filed under Section 92 of the Code seeking leave to institute the suit for framing of a scheme for administration of the first defendant's trust, to remove the second defendant as a trustee, to cancel amendments to the trust deed made in the year 2001 and 2009, to submit accounts from the year 2009, to handover the properties of the trust to the trustee to be appointed by the



Court, to remove the defendants 3 to 5 as trustees, to conduct an election through Court for electing a Managing trustee, to direct the second defendant to refund the salary received by him illegally from the year 1992 and for other reliefs as the Court may deem fit.

2. The trial Court upon consideration of the materials on record concluded that the plaintiffs have made out a case for grant of leave allowed the application. Aggrieved by the order granting leave, the petitioners have come up with this Revision.

3. Mr. M.Vimal Bobby Crimson, learned counsel appearing for the petitioners would vehemently contended that while the plaintiffs 1 to 3 are interested in the trust, the plaintiffs 4 to 6 are the trustees, who were removed even in the year 2001 and therefore, they cannot be deemed to be interested persons. Further arguing, the learned counsel would submit that if the prayer No.3 is granted, the removed trustees would be restored as trustees. I do not see any justification for the apprehension of the counsel that the plaintiffs 4 to 6 would become trustees if the prayer No. 3 is granted.



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4. Prayer No.3 is only for cancellation of the amendments made in the year 2001 and 2009. The action of the trust removing the plaintiffs 4 to 6 as trustees is not questioned. Therefore, I do not see any basis for the contention of the learned counsel that the defendants 4 to 6 would become trustees if prayer No.3 is granted. Even otherwise, at this stage, that is granting of leave under Section 92 of the Code, the Court has to look at only *prima facie* case and there cannot be a rowing enquiry on the prayers sought for.

5. It is well open to the defendants to resist the suit and put forward their defence and get the suit dismissed. A mere apprehension cannot be a ground for refusing leave under Section 92 of the Code.

6. The Hon'ble Supreme Court in ***R.M.Narayana Chettiar and others Vs. N.Lakshmanan Chettiar and Others [AIR 1991 SC 221]*** has held that grant of leave under Section 92 of the Code of Civil Procedure will not confer any right on the plaintiffs and such leave can be granted even without notice to the other party.



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7. I therefore do not see any reason to interfere with the order granting leave to sue. Hence, this Civil Revision Petition fails and it is accordingly dismissed.

04.01.2022

vsg

Index: Yes/No

Speaking order / Non speaking order

To:

1. Principal District Court
Thiruvavur.
2. The Section Officer,
VR Section,
Madras High Court, Chennai.



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R.SUBRAMANIAN, J.

Vsg

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