



CRP(MD)No.1565 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)No.1565 of 2022
and
CMP(MD)No.6724 of 2022

1.Velu Thampi Memorial Education Trust,
Rep. by its Chairman,
Room No.1, VTM College Campus,
Arumanai Post, Arumanai Village,
Vilavancode Taluk,
Kanyakumari District.

2.Gopinathan Nair

3.Harishkumar

: Petitioners

Vs.

1.Thanka Baskar

2.Ashok

3.Sreekumaran

4.Parameswaran Nair

5.Radha Mohan

: Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records pertaining to the order dated 21.12.2021 passed by the



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learned Subordinate Judge, Kuzhithurai, in I.A.No.6 of 2021 in O.S.No.223 of 2021 and set aside the same.

For Petitioners : Mr.K.Prabhakar

ORDER

As against the orders passed by the learned Subordinate Judge, Kuzhithurai, in I.A.No.6 of 2021 in O.S.No.223 of 2021, dated 21.12.2021, the petitioners have moved the instant civil revision petition.

2.The respondents 1 to 3, as plaintiffs, have filed an interlocutory application in I.A.No.1 of 2021 seeking leave to file a suit as against the petitioners Trust, as required u/s.92 CPC, claiming that it is a public charitable trust. Leave was accordingly granted by the trial Court vide order dated 02.12.2021 and thereafter, the suit was numbered and notice was also ordered. On receipt of notice in the suit, the petitioners Trust filed an application in I.A.No.6 of 2021 to revoke the leave granted, stating that the Trust is a private Trust and that without going through the averments in the plaint and without even issuing any notice to them, leave was granted in a mechanical manner. The trial Court dismissed this interlocutory application and as against the same, the present revision is filed.



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3.Learned Counsel for the petitioners submitted that the suit has been instituted vexatiously to harass the members as well as office bearers of the Trust. Section 92 CPC gives protection to the public trust from any such vexatious litigation that before instituting a suit, leave has to be obtained from the concerned Court. In this case, though the respondents 1 to 3 have not placed any materials substantiating their contentions in the plaint, the trial Court has mechanically granted the leave to file the suit as against the Trust, which is not even a public Trust, but a private Trust. There is no reasoning assigned by the trial Court in granting leave and therefore, the order has to be set aside.

4.This Court paid it's anxious consideration to the submissions made by the petitioners and also to the available materials.

5.It appears that the trial Court has came to the conclusion that the trust has not maintained the accounts and there is maladministration and there are several other complaints and therefore, granted leave to the respondents 1 to 3 to file the suit. On receipt of the notice in the suit, the petitioners Trust have filed I.A.No.6 of 2021 to revoke the leave granted in I.A.No.1 of 2021 on the ground that the Trust



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is not a public one and as such, the question of grant of leave as required u/s.92 CPC would not arise at all. They have also taken a stand that the trial Court has not arrived at the subjective satisfaction before granting the leave.

6. Though the trial Court has not adduced any reasons for granting leave in I.A.No.1 of 2021, the Court has adduced the reasons while dismissing I.A.No.6 of 2021, which was filed by the petitioners to revoke the leave. This Court is satisfied with the reasons assigned by the learned Judge and is not inclined to interfere with the same. However, it is the grievance of the petitioners that by filing vexatious litigations, the Trust is put into distress. Needless to say that it is always open to the petitioners Trust to file appropriate petition under Order 7 Rule 11 CPC to struck off the plaint, if they are so advised and if they are having sufficient grounds.

In fine, this civil revision petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
gk

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To

The Subordinate Judge,
Kuzhithurai.



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B.PUGALENDHI, J.

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