



A.No.664 of 2022 & and A.No.665 of 2022
in C.S.No.264 of 2006

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N.SESHASAYEE, J.,

The dispute is over the management of the first plaintiff - Trust. The second plaintiff and the first defendant are the founders of the Trust, and for close to two decades they are a divided plot, each one claiming right in the management.

2. Indeed few of the defendants have laid a suit in C.S.No.648 of 2003 claiming that they are in management of the Trust and that they have expelled the second plaintiff from the office of the chairmanship of the Trust. The plaintiffs claim that they have expelled the defendants. Both the suits have been tried jointly and they are midway through the trial.

3.Be that as it may, the plaintiffs 2,4 and 5 in C.S.No.264 of 2006 have passed away. The plaintiffs have taken application in A.No.665 of 2022 for notifying in the cause-title of the plaint about the death of plaintiffs 2,4 and 5. This application is allowed.

4. The first plaintiff in C.S.No.264/2006 is the Trust and it is stated to be represented by the second plaintiff, who as indicated earlier is now dead. The



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plaintiffs' state that consequent to the demise of the second plaintiff, they have constituted the seventh plaintiff as the Chairman and has taken out an application in A.No.664/2022 to substitute the seventh plaintiff in the place of the second plaintiff to represent the first plaintiff-Trust as its chairman. This is strongly objected to by the defendants.

5. The core contention of the defendants is that the seventh plaintiff at any rate is in the party array, and there is no need to give him a tag of the chairman of the first plaintiff-Trust.

6. There is one Trust and someone in both the sides claim to be a chairman of the Trust: one is apparently in the management of the Trust with an order of interim injunction passed in C.S.No.648 of 2003 to back them, and the other is aspiring to get into the management of the Trust after ousting the former.

7. The only irritant for the defendants appears to be that giving the seventh plaintiff in C.S.No.264 of 2006, a tag of Chairman, which for all purposes is a claim made by the plaintiffs in the suit, which in the opinion of the Court will have very little to bind the defendants or even the Court. When second plaintiff introduces himself as chairman of the first plaintiff-Trust, it might still



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be an irritant to the defendants, but such claim is not conclusive. Therefore, the seventh plaintiff claiming himself to be the chairman will not have any consequences, either on the rights of the defendants or has influence or impact in the adjudicatory process. It is his claim, and if he is so pleased with that, so be it, and it will not have any bearing on anybody's right.

8.1. This Court is fast losing its patience with the litigation pending for two decades. In the view of this Court, whatever claim the seventh plaintiff makes is of zero consequence, and except giving him some kind of satisfaction at this point of time, it is of no real benefit to anybody, since the entire matter is subjudice.

8.2 This Court is not interested in halting up these applications, but chooses to grant the seventh plaintiff the satisfaction that he wished to hold for the present and hence, allowed the application in A.No.664 of 2022.

9. The counsel for the defendants makes a statement that some of the documents produced by the seventh plaintiff as P.W.1 marked are the certified copies of the xerox copies of certain documents enclosed to the plaint. This is plainly unacceptable since it appears to give the certified copies, a colour of



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secondary evidence, but in law, it is secondary evidence of secondary evidence whose authenticity is not known. The learned counsel for the defendants is also required to alert the learned Master and enter his objections promptly. The merit of this ancillary issue will be decided during the final disposal of the suit.

10. The plaintiff is required to carry out the amendment latest by 30.01.2023.

11. The trial is directed to be resumed by the learned Additional Master IV on 03.02.2023. The learned Master is not required to mark any of these documents (copies of the copy), unless the witness is able to explain where the primary documents are. The learned Master is required to give priority to this case, and try to expedite the process of trial, and if possible, day to day basis, and conclude the trial as expeditiously.

Post the matter before the learned Additional Master IV on 03.02.2023.

12.01.2023

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N.SESHASAYEE, J.,

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