



WEB COPY

C.R.P.Nos.4327 & 4329 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.Nos.4327 & 4329 of 2022

and

C.M.P.Nos.22740 & 22746 of 2022

C.R.P.No.4327 of 2022

1.G.Rathinasabapathy

2.Ramathal

3.Senthilkumaran

4.R.Rayappan

5.K.Kalaivani

6.Dhanalakshmi Subramaniam

7.R.Revathi

8.G.Manoharan

... Petitioners

Vs.

1.M/s.Ponni Charitable Trust,
A Registered Charitable Trust,
Rep.by its President,
R.Ramamoorthy
No.858, Samalapuram Post,



Tiruppur District – 641 668.

2.M/s.Literacy Mission Matriculation Higher

Secondary School,
Rep.by its Principal/President,
R.Ramamoorthy,
Karanampettai,
Somanur Road,
Samalapuram,
Tiruppur – 641 663.

3.G.S.Ramasamy

4.R.Ramamoorthy

5.T.Chinnasamy

P.Senniappan (Died)

6.M.V.Thangannan

7.S.Gunashekar

8.Sathyaraj Ramamoorthy

9.P.Ganesamoorthy

10.A.Velusamy

11.S.A.Senthilkumar

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set-aside the fair and final order dated 01.06.2022 made in I.A.No.442 of 2020 in O.S.No.454 of 2020 on the file of the Principal District Judge, Tiruppur.



C.R.P.No.4329 of 2022

WEB COPY

M.Subramaniam (Died)

1.G.Rathinasabapathy

2.G.Manoharan

3.Ramathal

4.M.Ganesan

5.M.Srinivasan

6.Thangaraj

... Petitioners

Vs.

1.M/s.Ponni Charitable Trust,
A Registered Charitable Trust,
Rep.by its President,
R.Ramamoorthy
No.858, Samalapuram Post,
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2.M/s.Literacy Mission Matriculation Higher
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3.G.S.Ramasamy



4.R.Ramamoorthy

5.S.A.Senthilkumar

P.Senniappan (Died)

6.M.V.Thangannan

7.P.Ganesamoorthy

8.Sathyaraj Ramamoorthy

9.S.Gunashekar

10.T.Chinnasamy

11.A.Velusamy

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set-aside the fair and final order dated 01.06.2022 made in I.A.No.444 of 2020 in O.S.No.300 of 2019 on the file of the Principal District Judge, Tiruppur.

For Petitioners

: Mr.S.Arjun
(In both C.R.Ps)

COMMON ORDER

The Civil Revision Petitions have been instituted, challenging the common order dated 01.06.2022 passed in I.A.No.444 of 2020 and I.A.No.684 of 2021 in O.S.No.300 of 2019, I.A.No.442 of 2020 and



I.A.No.685 of 2021 in O.S.No.454 of 2020 and I.A.No.726 of 2021 in
O.S.No.52 of 2019.

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2. The Interlocutory Applications are filed as detailed hereunder:

“I.A.No.442/2020 in O.S.No.454/2020 and I.A.No.444/2020 in O.S.No.300/2019, applications have been filed by the defendants seeking for rejection of the complaints under Order VII, Rule 11 of CPC.

I.A.No.684/2021 in O.S.No.300/2019 and I.A.No.685/2021 in O.S.No.454/2020, the plaintiff have filed applications under Order 6, Rule 17 to amend the complaint since 6th plaintiff died and to implead Rathinasabapathy as the proposed party on the side of the plaintiff since he was declared as President in the place of Subramanian.

I.A.No.726/2021 in O.S.No.52 of 2019 was filed to implead him under Order 1, Rule 10 of C.P.C. As all the applications and the parties in the suits are one and the same, reliefs claimed are also similar, all the applications are taken up together for common disposal.”



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3. The learned counsel for the revision petitioners mainly contended that the cause of action narrated by the plaintiffs in Paragraph 18 of the plaint would be insufficient to entertain the plaint and thus, the plaint is to be rejected.

4. It is contended that some of the trustees were removed from the Trust and after several years, they were re-inducted, which would establish that the cause of action aroused for the purpose of filing a suit by the plaintiffs is untenable.

5. The learned counsel for the revision petitioners is of an opinion that the coram for any meeting for the board of trustees shall be 7 trustees including the person presiding. In the present cases, there is no coram as far as the Trust is concerned and therefore, the suits filed by the respondents/plaintiffs are to be rejected under Order 7 Rule 11 of C.P.C. Order 7 Rule 11 (a) stipulates that '*where it does not disclose a cause of action*'.



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6. A distinction is to be drawn, where there is no cause of action and cause of action, which would be insufficient to deal with the issues. If there is no cause of action, then the Courts are empowered to invoke Order 7 Rule 11 C.P.C., and if there is a cause of action, which may be sufficient or insufficient, however, in such circumstances, the issues raised between the parties are to be adjudicated on merits and in accordance with law. That apart, the cause of action column cannot be read in isolation and the plaint as a whole must be considered for the purpose of forming an opinion, whether a plaint is to be rejected or not. The averments in the plaint plays a pivotal role in forming an opinion, whether there is a cause of action or no cause of action.

7. In the present cases, there are several allegations set out against the defendants in the plaint and the cause of action as narrated would reveal that bundle of facts involved in the plaint. Therefore, such issues are to be tried on merits and in accordance with law and even if there is an iota of doubt regarding cause of action, the parties must be allowed to establish their case through documents and evidences.



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8. The trial Court in the present cases, formed an opinion that as per the plaintiff contentions, the cause of action narrated would be sufficient to try the suit. This Court do not find any infirmity or perversity in respect of the conclusion arrived by the trial Court. Perusal of the plaintiff averments and the cause of action column, this Court is of an opinion that facts, which all are raised, are to be tried by framing the issues and thus, the revision petitioners have not established any acceptable ground for the purpose of interfering with the common order passed by the trial Court.

9. Accordingly, the common order dated 01.06.2022 passed in I.A.No.444 of 2020 and I.A.No.684 of 2021 in O.S.No.300 of 2019, I.A.No.442 of 2020 and I.A.No.685 of 2021 in O.S.No.454 of 2020 and I.A.No.726 of 2021 in O.S.No.52 of 2019 stand confirmed and both the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

19.01.2023

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Index : Yes

Speaking order

Neutral Citation : Yes



To

1. The Principal District Judge,
Tiruppur.

WEB COPY

C.R.P.Nos.4327 & 4329 of 2





WEB COPY

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S.M.SUBRAMANIAM, J.

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