



W.P.(MD)No.15626 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.15626 of 2020
and
W.M.P.(MD).No.13113 of 2020

Dr.Venkat Ganesh

... Petitioner

Vs.

- 1.The District Registrar,
District Registrar Office,
KMSK Chettiar Complex,
Aranthangi Road,
Pattukkottai,
Thanjavur District.
- 2.The Joint Sub Registrar No.I,
Pattukkottai,
Thanjavur District.
- 3.T.Subbarayan
- 4.Justin Selvakumar
- 5.Sadagopan
- 6.Sahul Hameed

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the Registration of Impugned Amendment of Trust Deed, dated 25.10.2019, vide Document No.33 of 2019, on the file of the second respondent and quash the same.

For Petitioner : Mr.K.Samidurai

For R-1 and R-2 : Mr.B.Saravanan
Additional Government Pleader

For R-3 and R-4 : Mr.B.Manjunath

For R-5 and R-6 : No Appearance

ORDER

This Writ Petition has been filed questioning the impugned amendment to the trust deed dated 25.10.2019 which was entertained and registered by the second respondent in Document No.33 of 2019.

2. Heard the learned counsel appearing on behalf of the petitioner, the learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 and the learned counsel appearing on behalf of the respondents 3 and 4. The notice that was served to the respondents 5 and 6 was refused to be received and therefore, they are deemed to have been served with notice.



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3. The case of the petitioner is that Five Star Educational Trust was formed by his father in the year 1991. This trust imparts education to the students in the rural areas and they were also running the Higher Secondary School at Pattukkottai. The father of the petitioner is the founder trustee and on his demise, the petitioner became a trustee through the amendment to the trust deed dated 20.02.2003.

4. The grievance of the petitioner is that by virtue of a resolution passed on 21.05.2019, the petitioner and one Kaliamoorthy were removed from the trusteeship. Immediately, the petitioner gave an objection to the second respondent not to entertain the amendment of trust deed and to register the same, by representation dated 12.06.2019, on the ground that the tenure of the office of the trusteeship shall be for life subject to the powers vested with the board of trustee. In spite of receipt of the objection, the second respondent proceeded to entertain the document and register the same through Document No.33 of 2019. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. It is brought to the notice of this Court that already O.S.No.138 of 2019 has been filed challenging the removal / suspension of the petitioner and



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one Kaliamoorthy and the same is pending before the Principal District Court, Thanjavur. That apart, the petitioner had also filed an appeal before the first respondent questioning the registration of the document made by the second respondent. This appeal was disposed of by the first respondent through proceedings dated 10.01.2023 on the ground that already a suit is pending and that apart, the present Writ Petition is also pending before this Court. Aggrieved by the same, the petitioner has filed a further appeal before the Deputy Inspector General of Registration, Thanjavur and the same is pending.

6. In the considered the view of this Court, the petitioner was paralelly redressing his grievance before the competent civil Court and also by filing an appeal before the concerned authority. In view of the same, the relief as sought for in this Writ Petition cannot be granted by this Court. It is now too well settled that this Court will not exercise its jurisdiction under Article 226 of the Constitution of India, where the petitioner has already resorted to redress his grievance through an alternative remedy.

7. The removal of the petitioner and one Kaliamoorthy is now a subject matter of challenge before the competent civil Court in O.S.No.138 of 2019 on the file of the Principal District Court, Thanjavur. Hence, irrespective of



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registration of the document dated 25.10.2019 as Document No.33 of 2019, the

parties will have to agitate the dispute independently in the pending suit. This registration will not have a bearing and the civil Court will deal with the issue independently. If according to the petitioner, the registration has to be suspended and the petitioner must be allowed to function as a trustee, no such interim order can be passed in this Writ Petition, when the substantive dispute is pending before the competent civil Court. In view of the same, it is left open to the petitioner to move an appropriate application in the pending suit in O.S.No.138 of 2019 before the Principal District Court, Thanjavur. The same will be considered by the concerned Court after giving opportunity to all the parties concerned on its own merits and in accordance with law. This liberty will sufficiently take care of the grievance expressed by the petitioner.

8. This Writ Petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

19.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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N.ANAND VENKATESH, J.

Nsr

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