Orders Reserved on : 28..03..2024

Orders Pronounced on : 18..04..2024

O.A.No.80 of 2023
in
C.S.No.26 of 2023

N.SATHISH KUMAR.J.,

The Civil Suit in C.S.No.26 of 2023 has been filed seeking to pass a judgement and decree (i) declaring that the letter dated 07.01.21023 issued by the 4th defendant communicating to the plaintiff as null and void, non-est and not binding on the plaintiffs; (ii) granting permanent injunction restraining the defendants 4 & 5 or their men, agent or any other person acting through them, from interfering with the plaintiffs in their right to discharge their duties and functions as the Hereditary Trustees of the 1st defendant trust; and for costs of the suit.

2. In the above said Civil Suit, the plaintiffs have taken out an Original Application in O.A.No.80 of 2023 seeking an order of interim injunction

restraining the defendants 4 & 5 or their men, agent or any other person acting through them from interfering with the applicants' right to discharge their duties and functions as the Hereditary Trustees of the 1st defendant trust pending disposal of the suit in C.S.No.26 of 2023.

3. For the sake of convenience and to avoid unnecessary confusion or ambiguity in the discussion, the parties will hereinafter be referred to as they are arrayed in the civil suit.

4. The facts leading to the filing of the Civil Suit along with the Original Application, in brief, are as under:-

(i) The 1st defendant - Meenakshi Ammal Trust was originally founded by Mrs.Meenakshi Ammal, the grandmother of the plaintiffs 1 and 2 under the Trust Deed dated 18.03.1983 along with two other founder trustee viz., 4th defendant - R.Gomathi, the mother of the plaintiffs 1 and 2 and A.N.Radhakrishnan, the father of plaintiffs 1 & 2.

(ii) The main objectives of the trust is to impart education to the needy and poor and to run educational institutions and spread knowledge to promote and advance the cause of education and the Hindu culture for the pursuit of knowledge, particularly, Hinduism grant aids to Indian Citizens to study and research in the fields of Hindu culture and Fine Arts. The original Deed of Trust dated 18.03.1983, underwent various amendments and as per the amendment made on 14.06.1995, the main objective of the trust was to sub-serve the interest of minority community i.e., Telugu speaking Yadava Community of Tamil Nadu origin. As per the last amendment made to the trust deed on 11.08.2021, the plaintiffs and the 5th defendant were inducted as hereditary trustees of the 1st defendant trust. It is the case of the plaintiffs that such hereditary trusteeship is for life. Neither under the original Deed of Trust dated 18.03.1983 nor in the Amendment of Trust Deed dated 11.08.2021, there is any provision to remove the hereditary trustees from the office of the trusteeship by the Managing Trustee or even by the Board of Trustees.

(iii) As per clause VI of the original Deed of Trust dated 18.03.1983, the general management of the affairs of the trust vest with the board of trustees, presided by the Managing Trustee and it is for the trustees to take decisions relating to the trust. As per Clause VII of the original Trust Deed, the trustees alone shall open the bank accounts and maintain the same. Even as per the supplement Trust Deed dated 29.06.1983, it is for the Managing Trustee to open and operate independently the bank accounts without any power to delegate the same and it is the collective responsibility of trustees who have been given power to borrow, to make rules, to make appointments, to purchase immovable properties, etc. Therefore, according to the plaintiffs, no trustee can act singly and all powers vest only with the Board of Trustees. As per the supplement Trust Deed, the objects of the trusts were further amended to include 'imparting of Medical Education". The original Trust Deed and the supplement Trust Deed were executed only by Mrs.Meenakshi Ammal as Founder Trustee of the 1st defendant trust.

(iv) Under the memorandum and bye-laws of the 1st defendant trust, which was registered on 12.02.2021, it was again reiterated that the general management of affairs of the 1st defendant trust vests with the Board of trustees, presided over by the Managing Trustee.

(v) After the death of Mrs.Meenaksh Ammal, the founder trustee, on 13.04.2018, the other founder trustees viz., A.N.Radhakrishnan was appointed as the Managing Trustee by resolution dated 20.04.2018. The said A.N.Radhakrishnan assumed the charge as the Managing Trustee on the same day i.e., on 20.04.2018 and was discharging his duties and responsibilities as the Managing Trustee of the 1st defendant trust.

(vi) The plaintiffs were inducted as hereditary trustees of the 1st defendant trust as they are well qualified and that the 1st plaintiff is a B.B.A. Graduate while the other plaintiffs are Doctors by profession. While so, the office of the Managing Trustee again fell vacant due to the demise of A.N.Radhakrishnan on 03.12.2022 and after the demise of A.N.Radhakrishnan, his wife, the 4th defendant – Mrs.R.Gomathi should have assumed the office of the Managing Trustee, as per the amended trust deed dated 11.08.2021, however, after the demise of A.N.Radhakrishnan, the then Managing Trustee of the 1st defendant trust, the 4th defendant has not assumed charge till date.

(vii) The 1st defendant trust is managing various educational institutions named as under:-

1. Meenakshmi Ammal Polytechnic College, Uthiramerur

2. Meenakshi Ammal Arts and Science College, Uthiramerur

3. Arulmigu Meenakshi Amman College of Education, Uthiramerur

4. Meenakshi Ammal Teacher Training Institute, Uthiramerur.

5. Meenakshi Ammal Matriculation Higher Secondary School, Uthiramerur

6. Meenakshi Ammal Global School, Uthiramerur

7. Arulmigu Meenakshi Amman College of Engineering, Vadamavandai

8. Arulmigu Meenakshi Amman Higher

Secondary School, Alapakkam

9. Arulmigu Meenakshi Amman Public School, Alapakkam

10.Meenakshi College of Engineering, Virugambakkam

11. Vani Vidhyalaya Senior Secondary School, Virugambakkam

12. Kanchi Vani Vidhyala, Enathur, Kanchipuram

13. ANR College of Arts and Science, Vadamavandai

(viii) That apart, there are other educational institutions under another unit called M/s.Meenakshi Academy of Higher Education and Research [for short "MAHER"] which was constituted by bye-law dated 14.09.2001. The formation of MAHER was necessitated to satisfy the UGC guidelines, in order to attain the status of Deemed University for M/s.Meenakshi Academy of Higher Education and Research (MAHER). The MAHER is fully funded by the parent 1st defendant trust. The following institutions are functioning under the MAHER Trust:-

(1) Meenakshi Ammal Dental College, Maduravoyal

(2) Meenakshi College of Nursing, Mangadu

(3) Meenakshi Medical College & Hospital Research Indsitute, Kanchipuram

(4) Arulmigu Meenakshi College of Nursing, Kanchipuram

(5) Faculty of Physiotherapy, K.K.Nagar

(6) Faculty of Humanities and Science (FHS), K.K.Nagar

(7) Faculty of Allied Health Sciences (FAHS), K.K.Nagar

(8) Faculty of Occupational Therapy, K.K.Nagar

(9) Faculty of Yoga Sciences and Therapy (FYST), K.K.Nagar

(ix) Under the umbrella of the 1st defendant trust, yet another trust was founded by the 1st defendant trust in the name and style of 'Sri Muthukumaran Educational Trust' which has been arrayed as 3rd defendant in the suit. The 3rd defendant trust is also a public charitable trust it was founded by a Deed of Trust dated 07.03.1984. The 3rd defendant trust is funded by the 1st defendant trust. The 4th defendant is a Founder Trustee along with two other trustees viz., one V.K.Kodhandaraman and Mrs.Meenakshi Ammal. After the death of V.K.Kodhandaraman, one of the founder trustees, the trust deed was amended by Deed of Amendment of Trust Deed dated 14.06.1995 by declaring itself as a Linguistic Minority Trust, i.e., a Telugu speaking Yadava Community of Tamil Nadu Origin. The following institutions are functioning under the 3rd defendant trust:-

(1) Thiru Seven Hills Polytechnic College Alapakkam Road, Maduravoyal

(2) M.G.R. Institute of Hotel Management and Technology, Sri Devi Garden, Valasaravakkam

(3) Sri Muthukumaran Institute of Technology Chikkarayapuram, near Mangadu

(4) Sri Muthukumaran Arts and Science College, Chikkarayapuram, near Mangadu

(5) Sri Muthukumaran College of Education, Chikkarayapuram, near Mangadu

(6) Sri Muthukumaran Medical College Hospital and Research Institute, Chikkarayapuram, near Mangadu

(7) Mangadu Public School, Chikkarayapuram, near Mangadu

(x) After the demise of A.N.Radhakrishnan on 03.12.2022, the office of the managing tursteeship of the 1st defendant trust fell vacant, which was to be filled up at the earliest and as such a resolution was required to be passed in the Board of Trustees. The plaintiffs as Hereditary Trustees were waiting for the conduct of Extraordinary General Body Meeting (for short "the EGM") to pass such a resolution. Since no such steps were taken by the defendants 4 & 5, in order to protect the interest of the trust and its funds from any kind of misuse, the plaintiffs cautioned the bankers of the 1st defendant trust and also to the educational institutions run by the 1st defendant trust by letters dated 15.12.2022 and 16.12.2022 thereby indicating that an EGM is proposed to be held soon and until such time, the operation of bank accounts could be kept in abeyance. The plaintiffs were under expectation that the 4th defendant would call for an EGM and waited for the same. The above said letter dated 15.12.2022 was issued only to safeguard the interest of the trust and to save the trust funds from misuse, more particularly, by the 5th defendant. There were some anti-trust activities and the 5th defendant has started misusing her position, which necessitated the issuance of letter dated 15.12.2022 by the plaintiffs.

(xi) The 4th defendant being less literate and dependent on someone to understand and in order to protect the 4th defendant from the clutches of her daughter, the 5th defendant, who is keeping the 4th defendant in the dark about the trust and its activities and to safeguard the interest of the trust and also the 4th defendant, there was imminent necessity to convene EGM. However, the 5th defendant misled the 4th defendant and failed to convene EGM for her own reasons. Therefore, the plaintiffs having no other options issued a notice dated 23.12.2022 to convene the EGM by enclosing a copy of the agenda only with a view to safeguard the interest of the 1st defendant, a public trust from the clutches of the persons, who aim at taking control of it as their personal property. The 4th defendant, according to the plaintiffs, never actively participated in the affairs of the 1st defendant trust as one of the founder trustee and it was only Mr.A.N.Radhakrishnan, who was taking care of the entire administration until he was active. However, instead of convening an EGM, the defendants 4 & 5 sent an objection letter, dated 26.12.2022, just one day prior to the scheduled date of EGM calling upon to call off the EGM which was scheduled to be held on 27.12.2022. However, considering the gravity of the situation and in the interest of the 1st defendant trust, the plaintiffs conducted the EGM as scheduled earlier on 27.12.2022 at 11.00 a.m. which was not attended by both the defendants 4 & 5 for fear of facing the EGM by the 5th defendant and in the said EGM various resolutions came to be passed, including a resolution unanimously nominating the 4th defendant as the managing trustee of the 1st defendant trust.

(xii) The plaintiffs came to know about some of the misdeeds and misuse of the position by the 5th defendant and some others as Hereditary Trustee of the Trust. It is the specific contention of the plaintiffs that the 5th defendant, who was then settled in the USA as citizen of the United States of America came to India in 2019 and pressurized A.N.Radhakrishnan to make her to be a part of the educational institutions of the trust and got herself appointed as the Managing Director to look after the institutions run by the 1st defendant trust and thereafter got herself appointed as Rector of MAHER, a Deemed To Be University, and thereafter, again got appointed as Pro-Chancellor of MAHER by pressurizing A.N.Radhakrishnan and the 4th defendant The post of 'Rector' was created for the 5th defendant to look into the financial transactions of all the institutions under the 1st defendant trust and MAHER by giving sweeping powers, in violation of the UGC Regulations and the same was objected to by the 2nd plaintiff by sending Emails to the Vice-Chancellor of MAHER.

(xiii) While so, taking advantage of the ill-health of A.N.Radhakrishnan, the 5th defendant had emotionally blackmailed the 4th defendant and sent a letter informing India Bank, Meenakshi Medical College Branch, Enathur, Kanchipuram, with which the 1st defendant trust maintained its accounts, on the letter head of MAHER, authorizing herself to operate the bank accounts of the 1st defendant trust along with Dr.R.S.Neelagandan (Vice Chancellor), C.Krithika (Registrar), K.S.Mallik Sabeer Ahmed (Finance Officer of MAHER), who were all in no way connected to the 1st defendant trust by signing the cheques. The resolution dated 25.03.2021 said to have been passed and referred to in the letter dated 05.04.2021 addressed to the Indian Bank was absolutely false and no such resolution was ever passed in the trust board.

(xiv) It is the further case of the plaintiffs that when A.N.Radhakrishnan was seriously ill and admitted at hospital for treatment, two memorandums of understandings were entered on 11.08.2022 by the 1st defendant trust, without any resolution from the board of trustees, for purchase of 8.38 acres of land at Thandalam village, Sriperumbudur for a sale consideration of Rs47.00 Crores from one M/s.Kannammal Educational Trust and a sum of Rs.9.48 Crore was paid from the bank account of the 1st defendant trust to the personal account of the said Managing Trustee K.N.Ramachandran. This property is a subject matter of third party rights. Similarly, the other property situated in Velacherry was sought to be purchased by the 1st defendant trust through an auction conducted by an Asset Reconstruction Company viz., Pegasus for a sale consideration of Rs.59.17 crore without a board's resolution which is also a subject matter of third party rights. Only in the above circumstances, the plaintiffs, in order to safeguard the 1st defendant trust, issued a notice calling for EGM to be conducted on 27.12.2022 and the same was also attempted to be thwarted by the 4th defendant at the instance of the 5th defendant by issuing objection letter dated 26.12.2022. In the above said objection letter dated 26.12.2022, the defendants 4 & 5 went to the extent of saying that the Managing Trustee has an unfettered and untrammelled rights to decide even to convene the EGM as if the very convening of EGM itself is invasion of rights conferred on the Managing Trustee. The autocratic and undemocratic attitude of the 5th defendant was apparent and as such, there was a compulsion for the 4th defendant to sign the said letter. Despite such objection, meeting was convened on 27.12.2022 and the defendants 4 & 5 did not attend the meeting and the EGM was presided over by a senior most hereditary trustee, viz., R.Rakesh, the 1st plaintiff, who was present, and some resolutions were passed in the EGM which were communicated by the plaintiffs in their letter dated 30.12.2022. The plaintiffs have also expressed their intention for an amicable approach in the interest and betterment of the institutions attached to the trust and also expressed their willingness for any number of meetings at any time and further informed that the resolution passed in the EGM would be kept in abeyance, till the settlements initiated. When the matter stood thus, all of a sudden, the plaintiffs received a letter dated 07.01.2023 from the 4th defendant under the caption “Intimation of Cession of Trusteeship in Meenakshi Ammal Trust”. The letter dated 07.01.2023 contains only false allegations and it was issued by the 4th defendant when she did not even assume the office of the Managing Trustee of the 1st defendant trust, after the demise of her husband A.N.Radhakrishnan, the then

Managing Trustee, as per the amended trust deed dated 11.08.2021.

(xv) According to the plaintiffs, as per the amendment of trust deed dated 11.08.2021, after the demise of the then Managing Trustee-A.N.Radhakrishnan, a resolution for the appointment of Managing Trustee followed by assumption of charge of office of the Managing Trustee of the 1st defendant trust are mandatory and only thereafter, the 4th defendant could call herself as the Managing Trustee of the 1st defendant trust and start discharging her duties and responsibilities. Without even allowing to follow the said mandatory procedures, no person could call himself/herself as the Managing Trustee by default. No such assumption of charge as Managing Trustee took place in this case. The letter dated 15.12.2022 was issued by the plaintiffs to all the bankers of the 1st defendant trust only in the interest of the trust. By letter dated 07.01.2023, the defendants 4 & 5 being minority trustees, announced the removal of the majority trustees and made the very board of trustees reduced to two and virtually made the trust board defunct by bringing it less than quorum of 3, which is impermissible in law and that the defendants 4 & 5 cannot take the law into their own hands and interpret the law as per their own convenience. The letter of the defendants 4 and 5 dated 07.01.2023 is, therefore, void ab initio and non-est in the eye of law and not at all binding on the plaintiffs and, by all means, the plaintiffs continue to be the Hereditary Trustees of Meenakshi Ammal Trust and their continuance cannot be questioned by the defendants 4 & 5. While so, the 5th defendant by issuing the letter dated 07.01.2023 has managed to become the de facto Managing Trustee and started using the 4th defendant as a puppet in her hands and got her signatures in the said letter. The 4th defendant might have signed the said letter without even understanding the repercussions of sending such a letter. According to the plaintiffs, the letter dated 07.01.2023 sent by the 4th defendant through the 5th defendant is illegal and void *ab initio* hence, the present original application for an interim order of injunction restraining the defendants 4 & 5, or their men, agent or any other person acting through them from interfering with the plaintiffs' right to discharge their duties and functions as the Hereditary Trustees of the 1st defendant trust pending disposal of the suit in C.S.No.26 of 2023.

5. The 4th defendant filed a counter affidavit for herself and on behalf of the other defendants *inter alia* contending as under:

(i) that the suit and the original application have been filed on wrong notion and under mistaken impression that the 4th defendant had removed the plaintiffs from the trusteeship of the 1st defendant trust. The fact remains that the 4th defendant has not removed the plaintiff from the trusteeship. The plaintiffs were ceased to be the hereditary trustees by operation of Clause-E of the Amendment of Trust Deed dated 11.08.2021 because of their act of commission and omission which were detrimental to the interest of the 1st defendant trust. The said letter of of the plaintiffs dated 07.01.2023 is just an intimation of automatic cessation that had occurred by the force of the above clause.

(ii) The 4th defendant further contended that the erstwhile Managing Trustee A.N.Ramachandran died on 03.12.2023. It was only A.N.Radhakrishnan, who was operating and was in-charge of the bank accounts maintained by the 1st defendant trust with the various banks during his life time. Upon demise of A.N.Radhamrishnan, by operation of Clause-M(i) of the Amendment of Trust Deed dated 11.08.2021, which unambiguously states 'After Mr.A.N.Radhakrishnan, the Managing Trustee, Mrs.R.Gomathi, the Founder Trustee shall assume the office of Managing Trustee in future in her life time", the 4th defendant automatically became the Managing Trustee of the 1st defendant trust. As per the Amendment of Trust Deed dated 11.08.2021, the responsibility to operate and manage all bank accounts of the 1st defendant trust and the Educational Institutions run by it, automatically vested upon the 4th defendant as the Managing Trustee, by virtue of the above-referred clauses.

(iii) While so, the defendants 4 & 5 were shocked to note that the plaintiffs have colluded to send a letter dated 15.12.2022 to the bankers of the 1st defendant trust and the institutions run by it and forced the said bankers to prohibit any other trustee to open, operate and manage the bank accounts, without any valid rhyme or reason. Soon after the receipt of the above said letter dated 15.12.2022, the bankers of the 1st defendant trust and its institutions ordered “Freeze/Stop” on operation of almost all the bank accounts on and from 16.12.2022. Bank Accounts were frozen by the bankers of the 1st defendant trust without even calling for any explanation either from the 1st defendant trust or from any of the other trustees of the 1st defendant trust. The above said act of the plaintiffs would indicate that they were acting in the manner that was prejudicial and detrimental to the interest of the 1st defendant trust and its institutions. In view of the freezing of bank accounts, the expenditures pertaining to conduct of examinations in various institutions could not be met, tuition fee could not be paid by the students during admissions in that period, internal transfers between accounts could not be effected, provision/vegetables could not be procured for students' hostel mess and fuel could not be filled for school/college buses. The defendants 4 & 5 were compelled to run from pillar to post by pleading and placing requests before several persons to prevent the substantial damage to the day-to-day operations of the 1st defendant trust and the institutions being run by it. Upon continuous persuasion and follow-up action, the bankers removed the orders freezing the bank accounts on 26.12.2022. In effect, the bank accounts of the 1st defendant trust and its educational institutions remained under 'freeze' between 16.12.2022 and 26.12.2022. The financial, reputational loss and damage that had occasioned to the 1st defendant trust and its institutions and its beneficiaries due to the above conduct of the plaintiffs are immeasurable and cannot be quantified.

(iv) It is further contended by the 4th defendant that while the facts stood thus, the plaintiffs had proceeded to issue a notice dated 23.12.2022 printed on the Letter-Head of the 1st defendant trust calling for an Extra-Ordinary General Meeting (for short "the EGM) of the 1st defendant trust on 27.12.2022 with certain alleged agendas with hidden motives, without any authority. In those circumstances, by letter dated 26.12.2022, the defendants 4 & 5 had recorded their strong objections to the said EGM which was sought to be convened without complying with the mandatory provisions of the trust deed. One of the agendas was to elect a trustee so as to run and administer the day-to-day affairs of the 1st defendant trust along with the Managing Trustee-Mrs.Gomathi Radhakrishnan. Thus, according to the 4th defendant, she never expected that she should be assisted by any of the trustees and in any event, the trustees of the 1st defendant trust have both legal and moral duty to assist the Managing Trustee as and when called upon to do so. Such agenda could only be seen as an attempt to hijack the powers of the Managing Trustee in the trust to mischievously and indirectly achieve the nefarious designs of the plaintiffs, knowing fully well that the same cannot be achieved by them directly. The plaintiffs proposed to convene the alleged EGM without prior consultation of the defendants 4 & 5 to discuss and take the most important decisions like the ones that are mentioned hereinabove.

(v) Further Clause N (ix) of the Amendment of Trust Deed dated 11.08.2021 stipulates that a minimum of 7 (seven) days gap shall be maintained between the date of communication of the Notice of Meeting of Board of Trustees and that the date of actual date of such meeting, excluding both days. Whereas in this case, the alleged EGM notice dated 23.12.2022 was issued to conduct the EGM on

27.12.2022 and in effect there was only a 3 (three) days gap. Such non-compliance of the mandatory provision regarding convening of any meeting raised serious suspicion about the plaintiffs' intention. Such conduct, in and by itself, would demonstrate the tearing hurry and the uncalled for urgency with which the plaintiffs had conspired to achieve their hidden agendas, which can never be said to be in the interest of the 1st defendant trust.

(vi) It is further contended by the 4th defendant that unmindful of the objections raised by her, the plaintiffs had proceeded to conduct EGM on 27.12.2022 without the presence of the defendants 4 & 5. The same was made known to the defendants 4 & 5 by the plaintiffs' letter dated 30.12.2022. The plaintiffs had fraudulently and mischievously conspired to misuse the Letter Pad of Meenakshi Ammal Trust to address a letter dated 15.12.2022 to the bankers of another Trust MAHER, the 2nd defendant trust. Such act of the plaintiffs is undoubtedly and unambiguously prejudicial to the interest and welfare of the 1st defendant trust and the institutions being run by it which, in fact, triggered the automatic operation of Clause-E of the Amendment of Trust Deed dated 11.08.2021 and by virtue of it, the plaintiffs automatically ceased to be the trustees of the 1st defendant trust w.e.f. 27.12.2022, the date on which the alleged EGM was conducted. In such view of the matter, the alleged resolutions passed during the EGM said to have been conducted on 27.12.2022 could not be said to have any effect or enforceability. Besides the above, the allegations with respect to the alleged misdeeds also disputed in the counter affidavit.

(vii) It is the further case of the defendants that the 2nd plaintiff has been convicted by judgement dated 02.02.2023 made in S.C.No.288 of 2019 by the learned I Additional Judge, City Civil Court, Chennai for offences under Sections 147, 448, 352 r/w 149, 355 r/w 149 (Two counts), 506 (i) of IPC, Section 3 of Tamil Nadu Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss of Property) Act, 2008 for varying jail terms and fines. Therefore, when the 2nd plaintiff is convicted in a criminal case for moral turpitude, he ceases to be a trustee as per the amended trust deed.

besides the act of the plaintiffs which were detrimental to the interest of the trust.

(viii) Insofar as the allegations that certain properties were purchased without any resolution passed in the board are concerned, the same have been specifically denied by the 4th defendant. It is contended by the 4th defendant that decisions to purchase the properties were taken by the then Managing Trustee late A.N.Radhakrishnan in consultation with the then Board of Trustees in which the plaintiffs were also parties and on the basis of a private treaty confirmation letter dated 29.11.2022, issued by Pegasus Asset Reconstructions Private Limited to the 1st defendant trust and also by paying a valid purchase consideration of Rs.59.17 crore. It is also contended by the 4th defendant that she was and is always discharging her duties as Managing Trustees in consultation with right minded trustees and all other professionals/advisors of the trustees, without any reservation or hesitation, as long as such trustees do not act in breach of trust towards achievement of the revered objects of the 1st defendant trust and the institution being run by it. Hence, the 4th defendant opposed the original application and prayed for dismissal of the same.

6. The 2nd plaintiff filed his rejoinder for himself and on behalf of other plaintiffs, *inter alia* disputing that

(i) it is incorrect to state that suit is barred under Section 92 of CPC as the present suit has been filed to vindicate their private right as the hereditary trustees of the 1st defendant trust because their right cannot be taken away by simply issuing a letter dated 07.01.2023 signed by the 4th defendant.

(ii) no list of details containing the bank accounts said to have been freezed by the bankers concerned based on the letters of the plaintiffs.

(iii) when the plaintiffs moved an application in A.No.774 of 2023 in CS DR.No.16308 of 2023 seeking leave under Section 92 of CPC for filing a separate suit, it was not the case of the defendants that they by letter dated 17.12.2022 informed about the asumption of charge of office of the Managing Trustee by the 4th defendant and therefore, the allegation that the defendants by their letter dated 17.12.2022 intimated about the assumption of office of the

Managing Trustee is nothing but an after thought. No such letter was actually communicated to any of the stakeholders, more particularly, to the bankers or to the trustees.

(iv) as against the conviction, he has preferred an appeal wherein the sentences have been suspended and he has been granted bail and the matter is subjudice before the court. The conviction recorded in the criminal case on 02.02.2023 is totally irrelevant to the cause of action in the present suit as the letter dated 07.01.2023 was issued on a different ground.

(v) dragging the criminal cases pending against the 4th defendant into the present dispute is nothing but a colourable exercise and nothing else.

(vi) the defendants 4 & 5 were afraid of facing the EGM of the Board Meeting and afraid of transparency and that was the reason why, they issued a letter of cessation dated 07.01.2023 after realizing that the 5th defendant could no longer keep the 4th defendant as puppet in her hands and only to nullify the resolutions passed in EGM dated 27.12.2022, the letter of cessation dated

07.01.2023 came to be communicated with retrospective effect from 27.12.2022 and therefore, the cat is out of the bag.

(vii) Amendment of trust deed empowers the senior most by age among the hereditary trustees to preside over the board meeting in the absence of the Managing Trustee at any meeting of the Board of Trustees and as such, the 1st plaintiff, who was the senior most by age and was present at the meeting, presided over the meeting and passed resolutions.

7. In the light of the above averments of either parties, now, the points that arise for consideration in the original application are:

(1) Whether the plaintiffs have established *prima facie* case for the grant of interim injunction?

(2) Whether the balance of convenience lies in favour of the plaintiffs and they will suffer irreparable loss and injury, if injunction is not granted?

(3) Whether the plaintiffs are entitled to interim order of

injunction when the main relief sought in the suit itself is to 'declare the letter dated 07.01.2023 as null and void'?

(4) To what other relief the plaintiffs are entitled?

8. This court has heard Mr.T.R.Rajagopalan, learned senior counsel for the plaintiffs and Mr.M.S.Krishnan, learned senior counsel for the defendants.

Point Nos.1 and 2:

9. The admitted facts as culled out from the records made available to the court are:-

(i) the plaintiffs 1 & 2 are the sons of the 4th defendant and brother of the 5th defendant; the plaintiffs 3 and 4 are grandsons of the 4th defendant and nephew of the plaintiffs 1 and 2 and the 5th defendant and in other words, the sons of the other daughter of the 4th defendant.

(ii) Public Charitable Trusts known as (1) Meenakshi Ammal Trust, (2) Meenakshi Academy of Higher Education & Research Trust (MAHER), and (3) Sri Muthukuaran Educational Trust, are run by members of one single family of the plaintiffs and defendants 4 & 5.

(ii) The 1st defendant trust was originally founded by a Deed of Trust deed dated 18.03.1983 wherein the grandmother of the plaintiffs 1 & 2 one Mrs.Meenakshi Ammal and the parents of the plaintiffs 1 and 2 namely, A.N.Radhakrishnan and Mrs.R.Gomathi, were the other founder trustees. Mrs.Meenakshi Ammal, the grand mother of the plaintiffs 1 and 2 was the Managing Trustee till her life time. Each of the founder trustees was given a right to appoint any one of their successors in interest to succeed him or her as hereditary trustee. The hereditary trustee will hold the office for life. Similarly, each hereditary trustee shall have right to appoint any one of his successors in interest to succeed him or her as hereditary trustee.

(iv) As per the original trust deed, general management of the affairs of the trust shall vest in the board of trustees, presided over by the managing trustee. None of the trustees shall hold place of profit in the trust. As per the original trust deed, the trustees shall open bank account and maintain the same.

The said original trust deed underwent various amendments and last such amendment was carried out on 11.08.2021. As per the said amendment of trust deed, the plaintiffs and the 5th defendant were appointed as hereditary trustees of the 1st defendant trust. Further, as per the said deed, hereditary trustees shall be the members of board of trustees of the 1st defendant trust with effect from the date of execution of the deed of amendment of trust.

(v) While so, A.N.Radhakrishnan, one of the founder trustees and the then Managing Trustee died on 03.12.2023. Until the demise of the then Managing Trustee and Founder Trustee-A.N.Radhakrishnan, there was no dispute among the trustees. Only after the death of A.N.Radhakrishnan, the then Managing Trustee, it seems that the plaintiffs on one side and the defendants 4 and 5 on the other side developed animosity.

10. The learned senior counsel for the plaintiffs would submit that

(i) The amendment of trust deed would make it clear that income and earnings of the charitable trust shall be utilized to attain the aim and objects of the organization as decided by the trustees of the charitable trust. Further, for resolution 2/3rd majority of the trustees present at the time as per the trust deed is mandatory. Thus, according to him, the 4th defendant being the mother of the plaintiffs 1 and 2 and 5th defendant and grandmother of the plaintiffs 3 & 4 was in-charge of the trust after the demise of her husband A.N.Radhakrishnan.

(ii) The Amendment of Trust Deed dated 11.08.2021 would further make it clear that after the death of A.N.Radharkrishnan, the 4th defendant shall assume the charge of the office of the Managing Director. Though A.N.Radhakrishnan died on 13.12.2022, no resolution whatsoever was passed for assuming the office of the managing trustee. The 4th defendant who herself acted as the Managing Trustee has been under the control of the 5th defendant who returned to India only in 2019. Now, the 5th defendant is at the helm of the affairs of the University (MAHER). When the plaintiffs being the hereditary trustees wanted to convene the meeting to appoint the 4th defendant as the Managing Trustee and also some other trustees to assist the managing trustee, the same was objected by the 5th defendant. Thereafter, they straightaway issued a letter dated 07.01.2023 as if the plaintiffs were automatically ceased to be the trustees.

(iii) There were various financial irregularities in the 1st defendant trust. The trust has purchased certain immovable properties wherein third party interest is involved. He would also point out two of such instances to the court to show that properties have been purchased for Rs.48.00 crore and other property which was purchased in a private auction sale after the death of R.N.Radhakrishnan. Hence, according to the learned senior counsel, the plaintiffs being hereditary trustees merely because they sent a letter to the bank with an intention to prevent any misuse of the trust funds it cannot be said that such act of the plaintiffs would amount to acting against the interest of the 1st defendant trust. The allegation that based on the letter sent by the plaintiffs, the bank had frozen the accounts of the 1st defendant trust for some time is false and no document whatsoever was filed before this court by the defendants.

(iv) The letter of the bank dated 26.12.2022 which was heavily relied upon by the defendants relates only to O.D. Account vide A/c No.985350432 of the 1st defendant where the plaintiffs stood as personal guarantors. No material whatsoever was produced by the defendants to show that any of the accounts maintained by 1st defendant trust or its institutions, other than OD Account, was frozen by the banks.

(v) The terms in the trust deed would indicate that after the death of A.N.Radhakrishnan, the 4th defendant should have assumed charge of office of the Managing Trustee and such office is for her life. But, there was no resolution passed in this regard and produced before the court to show that she assumed charge of the office of the Managing Trustee. In the absence of any such resolution, acting as Managing Trustee is not automatic. However, the 5th defendant, the sister of the plaintiffs 1 & 2, has sent a letter as if there was a resolution to create a post of Rector to maintain the bank accounts along with the Vice Chancellor, Registrar and Finance Officer. The said letter dated 05.04.2021 would indicate that the resolution pleaded in the letter has not seen the light of the day. Therefore, it would be clear that the 5th defendant has taken control of the entire trust and started operating the bank accounts which was not actually the object of the founder trustees.

(vi) The 5th defendant tried to exclude all other hereditary trustees. As many financial irregularities take place in the trust, the court has to protect the interest of the plaintiffs and the plaintiffs being the hereditary trustees, they cannot be removed automatically from the trusteeship as contended by the defendants 4 & 5**.** The court only has power to remove the trustees and therefore, the letter dated 07.01.2023 cannot be enforced in law to protect the interest of the trust which runs various educational institutions. The plaintiffs are entitled to participate in the day to day affairs of the trust. Therefore, the plaintiff is entitled to interim injunction against the defendants as prayed in the original application.

11. The learned senior counsel for the plaintiffs in support of his submission relied on the judgement in the cases of

(i) **Swami Paramatmanand Saraswati v. Ramji Tripathi [(1974) 2**

SCC 695] that to remedy infringement of an individual right or to vindicate private right does not fall under Section 92 of CPC;

(ii) **S.Meganathan v. Sri Devi Karumariamman Educational Trust [(2018) 1 CTC 759]** that trustees of a public trust can be removed only under Section 92 of CPC even for breach of trust; and

(iii) **State Bank of India v. P.Soupramaniane [(2019) 18 SCC 135]** that every assault is not an offence involving moral turpitude.

12. Per contra, the learned senior counsel appearing for the defendants would contend that

(i) the trust was originally founded by one Mrs.Meenakshi Ammal, the grand mother and the parents of the plaintiffs 1 & 2 and the defendant;

(ii) the very suit itself is only to vindicate a personal right of the plaintiffs and not in the interest of the trust and its properties;

(iii) in the absence of establishing any misdeed, the plaintiffs cannot now seek interim order of injunction restraining the defendants;

(iv) Supplement Deed dated 29.06.1983 and the amendment of trust deed dated 11.08.2021 authorised the Managing Trustee to act for and on behalf of the trust and to open and operate independently the bank accounts and to receive and to pay moneys on behalf of the trust;

(v) after the death of one of the founder trustees viz., Mrs. Meenakshi Ammal, who was the Managing Trustee, the father of the plaintiffs 1 & 2 and the 5th defendant viz., A.N.Radhakrishnan was appointed as the Managing Trustee and until the father was alive, there was no grievance whatsoever raised by the plaintiffs;

(vi) The plaintiffs 3 and 4 are the children of Premalatha Kanikannan, the other daughter of A.N.Radhakrishnan. During the life time of the then Managing Trustee – A.N.Radhakrishnan, he called his daughter the 5th defendant who was in a high position in the United States of America to return to India to work along with him and all the affairs of the trust were managed by A.N.Radhakrishnan along with the 4th defendant and 5th defendant. In fact, the father-

A.N.Radhakrishnan started reposing confidence in his daughter, the 5th defendant which was not however liked by the plaintiffs. Even during the life time of the father, 5th defendant was appointed as "Rector". At that time, the plaintiffs were not even inducted as hereditary trustees. Only when the father fell ill, the 1st plaintiff has sent a letter seeking some recognition for him in the administration. The letter dated 02.08.2022 would make it clear that the 1st plaintiff was not happy with his sister (5th defendant) having control over the institutions. Only thereafter, on 11.08.20211 by way of Amendment of Trust Deed of the 1st defendant trust, the plaintiffs were also made as hereditary trustees. However, now, it is projected in the plaint as if the trust monies are misused by the defendants 4 & 5;

(vii) the transactions with regard to purchase of properties were, in fact, authorized by A.N.Radhakrishnan himself during his life time when he was the Managing Trustee, however, now it has been projected as if the defendants 4 & 5 have committed financial irregularities;

(viii) in a nutshell, according to the learned senior counsel, it is only a personal fight with the 5th defendant, since the 5th defendant was given importance by her father A.N.Radhakrishnan. When the plaintiffs themselves were made as trustees only recently in August, 2021, they cannot allege that certain transactions were done without any resolutions that too, when such acts were, in fact, approved and authorized by the father and then then founder trustee - A.N.Radhakrishnan, during his life time;

(ix) Alleged breach of trust and misuse of trust funds are disputed facts and the same can be gone into only at the time of trial. Such issues cannot be decided in an interlocutory application that too when the suit itself has been filed to enforce a personal right. The relief sought in the suit is for declaration declaring that the letter dated 07.01.2023 issued by the 4th defendant communicating cessation of trusteeship of the 1st defendant trust to the plaintiff as null and void, non-est and not binding on the plaintiffs, unless declaration as prayed for in the plaint is granted, question of granting interim injunction would not at all arise.

(x) The learned senior counsel would also point out that the letters dated

15.12.2022 addressed to the bankers of the 1st defendant trust to keep in abeyance all the accounts of the 1st defendant trust and various institutions run by the 1st defendant trust resulted in freezing of the bank accounts for ten days, between 16.12.2022 and 26.12.2022. Thus, according to the learned senior counsel, repeated requests made by the plaintiffs to suspend the bank accounts would itself amount to anti-trust activities. The very Amendment of Trust Deed under which the plaintiffs were inducted as hereditary trustees stipulates that a person shall automatically cease to be trustee, in case, if he/she acts against the interest of the trust. The very conduct of the plaintiffs narrated above, more particularly, the urgency shown in conducting the EGM without even following the mandatory provision in respect of maintaining minimum of 7 days gap from the date of communication and date of meeting (excluding both days) , would clearly indicate that they are not really interested in the welfare of the 1st defendant trust and as a matter of fact, they are interested in capturing the power in the 1st defendant trust and taking control of the general management of the trust from the defendants 4 &

5, who are none other than the mother and the other sister of the plaintiffs 1 and 2 respectively.

13. The learned senior counsel for the defendants would further submit that one of the plaintiffs has been convicted in a criminal case and since the amendment of trust deed itself provides for automatic cessation when a person is convicted for an offence involving moral turpitude or acts against the interest of the trust, automatic cession of the trusteeship would take place. Therefore, letter dated 07.01.2023 was issued by the Managing Trustee invoking Clause-E of the Amendment of Trust Deed dated 11.08.2021. Whether invocation of such clause is valid or not is a matter of trial and unless the same is held to be invalid in the trial, the plaintiffs cannot seek an interim injunction. There is not even a *prima facie* case made out by the plaintiffs in their favour. The very Deed of Trust would indicate that after the death of A.N.Radhakrishnan his wife 4th defendant - R. Gomathi shall be the Managing Trustee. Such being the position, the question of passing a resolution permitting the 4th defendant to assume the office of the

Managing Trustee of the 1st defendant trust would not at all arise. She became the Managing Trustee automatically on the death of her husband as per the clauses contained in the Deed of Trust. Such view of the matter, the plaintiffs are not entitled for any relief of interim injunction.

14. The learned senior counsel placing reliance heavily upon the judgement of the Hon'ble Supreme Court in **Gujarat Bottling Co. Ltd., v. Coca Cola Co. [(1995) 5 SCC 545]** would submit that interim injunction being an equitable relief, the conduct of party who seeks equity has to be seen by the court for granting interim injunction. and in this case, the plaintiffs by their anti-trust activities were not fair to the 1st defendant and therefore, the plaintiffs are not entitled to any relief in the original application.

15. The learned senior counsel for the defendants would further submit that the case of the plaintiffs that the principle that final relief cannot be granted at interlocutory stage is not an absolute, however, the situation in the case of **Deoraj v. State of Madhya Pradesh [AIR 2004 SC 1975]** was different from the present

case and it would not at all attract to the present case.

16. Though arguments have been advanced by either side extensively on the issue with regard to purchase of immovable properties and on the day-to-day affairs of the 1st defendant trust and also on the alleged financial irregularities, the fact remains that the suit is for mere declaration, declaring the letter dated 07.01.2023 issued by the 4th defendant communicating the cessation of trusteeship of the plaintiffs from the 1st defendant trust as null and void, non-est and not binding on the plaintiffs and for permanent injunction.

17. On a careful perusal of the pleadings as found in para 35 of the plaint, this court is of the view that the relief sought in the present suit would not fall within the ambit of any of the provisions contained in sub-section (1) of Section 92 of CPC. On the other hand, it is the categorical stand of the plaintiffs that the suit has been filed seeking declaratory and prohibitory decree with a view to safeguard the pre-existing right of the plaintiffs and it being the private right, none of the provisions contained in sub-section (1) of Section 92 of CPC would attract.

18. On considering the rival submissions made on either, this court is of the view that allegations of mismanagement of the 1st defendant trust and breach of trust cannot be gone into at this stage as the suit itself is simple one for the relief of declaration and permanent injunction. It was however brought to the notice of this court that the plaintiffs herein have filed three other suits for framing scheme which are pending before this court.

19. In such view of the matter, this court is of the view that allegations with regard to the alleged mismanagement/financial irregularities and breach of trust have to be established in the manner known to law and it is all matter of evidence which cannot be agitated in the present interlocutory application. However, since the relief of interim injunction being equitable remedy, this court has no other option except to find out whether the plaintiffs satisfied the triple test principle for the grant of interim injunction and for that purpose to a limited extent, this court has to necessarily consider the deed of trust and also to take into consideration various other aspects of the matter projected by both sides.

20. The issue involved in the suit relates to the private right of the plaintiffs only in respect of the 1st defendant trust. The 4th defendant is in the helm of affairs of the 1st defendant trust as the Managing Trustee. She is none other than the mother of the plaintiffs 1 & 2 and the 5th defendant and grand mother of the plaintiffs 3 and 4, who are the sons of the other daughter of the 4th defendant.

21. The fact that the 1st defendant trust was founded by Mrs. Meenakshi Ammal along with A.N.Radhakrishnan and the 4th defendant – Mrs.R. Gomathi, the mother of the plaintiffs 1 and 2 and the 5th defendant in the year 1983 is not in dispute.

22. As per the Deed of Declaration of Trust dated 18.03.1983 one of the founder trustees viz., Mrs.Meenakshi Ammal was originally the Managing Trustee of 1st defendant trust for life. The said deed of trust also provides for the founder trustees to appoint hereditary trustees one of their successors in interest to succeed him or her as hereditary trustee. Such hereditary trustee will hold the office for life.

23. After the death of Mrs.Meenakshmi Ammal, A.N.Radhakrishnan, the father of the plaintiffs 1 & 2 was appointed as the Managing Trustee. The pleadings on either side would make it clear that even during the life time of A.N.Radhakrishnan, his daughter, the 5th defendant who was in the United States of America (USA) was brought by A.N.Radhakrishnan to India and she was given some responsibilities in the affairs of the 1st defendant trust.

24. The letter dated 15.02.2019 would make it clear that the 5th defendant was appointed as 'Rector" in MAHER Institution and the duty of the Rector is to control the entire financial transactions besides various other duties. She was authorized to sign the cheques and operate the bank accounts. The 5th defendant was appointed as 'Rector' in 2019, even during the life time of A.N.Radhakrishnan, which was not at all objected to by any one. Only for the first time, the 1st plaintiff had written a letter dated 02.08.2022 expressing his unhappiness over the management under the Rector.

25. It is relevant to note here that the main grievance of the 1st plaintiff in

the letter dated 02.08.2022 was against the appointment of Rector and the sweeping power conferred upon the Rector, the 5th defendant. This fact would indicate that the plaintiffs were not happy with the sweeping powers given to the 5th defendant in the administration of the University. Though the 5th defendant was appointed as Rector in 2019, an issue was raised for the first time only in 2022 questioning the appointment of the 5th defendant as Rector in the University.

26. Be that as it may, even thereafter, it appears that letter, dated 03.09.2022, which was sent by A.N.Radhakrishnan (available in the typed set of papers at Page No.205 – Vol.II) would show that the 5th defendant, who was appointed as Rector of MAHER, Deemed to be University, was appointed as also Pro-Chancellor, MAHER with immediate effect i.e., w.e.f. 03.09.2022. Such appointment was made by A.N.Radhakrishnan, Chancellor of MAHER. This fact would, in fact, substantiate the contention of the learned senior counsel for the defendants that the father reposed confidence in the 5th defendant (daughter) rather than the plaintiffs 1 and 2 (sons) even during his life.

27. The plaintiffs were inducted as hereditary trustees only on 11.08.2021 by way of amendment of trust deed wherein the plaintiffs and the 5th defendant were inducted as hereditary trustees.

28. The terms in the amendment of trust deed dated 11.08.2021 permits the trustees to borrow, if need be, against the security or the assets of the trust by way of bank over draft loans or otherwise, as may be necessary, for the benefit of the trust and for that purposes, the trustees may unanimously agree on such borrowing and limits to the terms of the decision or agreement or authorize the Managing Trustee to execute any document as may be necessary.

29. It is relevant to note one of the clauses viz., Clause-D (i) in the Amendment of Trust Deed, dated 11.08.2021, which reads as under:-

> “D (i) To borrow if needed be against the security or the assets of the trust by way of bank over drafts loan or otherwise, as may be necessary for the benefits of the trust provided, however, the trustees unanimously agreed on such borrowing and limits to the terms of this decision or agreement and or authorize Managing Trustee of the Trustees

> to execute such documents, deed, papers, etc., and as may be necessary in connection the trust."

30. The above clause found in the amendment of trust deed would make it clear that if the trustees unanimously agreed or agreed to authorize Managing Trustee that they can go for loan against security or assets of the trust to execute such documents, deeds, papers etc. as may be necessary.

31. Sub clause (i) of Clause-M found in the said deed which deals with the role of the managing trustee reads as under:-

> "(i) The Managing Trustee will be one among the Founder Trustees or Hereditary Trustees and he or she will be elected by the Founder Trustees or Hereditary Trustees. The Managing Trustees (Mr.A.N.Radhakrishnan) is continued to discharge the duties and affairs of the Trust as Managing Trustee. After Mr.A.N.Radhakrishnan, the Managing Trustee, Mrs.R.Gomathi, Founder Trustee shall assume the office of the Managing Trustee in future in her life time. Thereafter, one among the Hereditary Trustee shall

be elected as Managing Trustee."

32. The above clause found in the amendment of trust deed would make it further clear that after the death of A.N.Radhakrishnan, his wife Mrs.R.Gomathi shall assume the office of Managing Trustee in future in her life time. Sub-clause (v) of Clause-M stipulates that the Managing Trustee shall have all the powers of the Board of Trustees to administer and carry on the daye to day administration. Sub-clause (vi) deals with the policy decision which says that any policy decision, acquisition and disposal of properties, creation and establishment of new institutions, discontinuance, winding up of existing institutions, borrowing of funds with or without security on behalf of the trust and such other matters as may be specified by the Board of Trustees shall be done by the Managing Trustees only with prior approval of the Board of Trustees.

33. Clause-N of the Amendment of Trust Deed dated 11.08.2021 deals with board meeting which among other stipulations, imposes a condition that a minimum of 7 days gap shall be maintained from the date of communication and date of meetings, excluding both days.

34. Clause-M would make it clear that after the life time of A.N.Radhakrishnan, his wife R.Gomathi shall be the Managing Trustee and she shall assume the office of Managing Trustee. The very object and intention of the founder trustee-A.N.Radhakrishnan was to appoint his wife as the Managing Trustee after him.

35. Therefore, the contention of the learned senior counsel for the plaintiffs that unless there has been a resolution passed appointing Mrs.R.Gomathi, the 4th defendant as the Managing Trustee followed by assumption of charge of office of the Managing Trustee, she could not be presumed to be the Managing Trustee of the 1st defendant trust, cannot be countenanced for the simple reason that the deed of trust does not stipulate any such resolution required to be passed to assume the office of the Managing Trustee. When the deed of trust declares the 4th defendant as Managing Trustee, she would automatically become the Managing Trustee after the life time of her husband A.N.Radhakrishnan. Therefore, the contention that the 4th defendant has not assumed the charge of the office of the Managing Trustee

as there was no resolution for such assumption of charge of the office has no legs to stand.

36. Though the plaintiffs were appointed as hereditary trustees under Supplementary Trust Deed dated 11.08.2021, there are various clauses contained in the amended trust deed and it clearly sets out the functions of the Managing Trustee and it gives absolute power to the Managing Trustee on the day-to-day administration of the 1st defendant trust. Here, it is relevant to state that under original Deed of Trust dated 18.03.1983, three founder trustees retained their right to appoint Hereditary Trustees for life. Such right has been exercised for the first time only in 2021 under Amended Trust Deed dated 11.08.2021 with certain conditions. One of the main conditions set forth in the above deed is that all the Trustees should take the institutions smoothly. It was also made clear under the amended trust deed that a person shall automatically cease to be trustee, if he or she acts against the interest of the trust.

37. It is relevant to extract here one of the relevant clauses as found in

Clause-E which reads thus:-

> "E. A person shall cease to be trustee, in case, if he/she becomes undischarged insolvent or convicted for an offence involving moral turpitude or acts against the interest of the Trust or mentally insane or physically incapable of discharging the duties of the Trustees or resigns or removed by the Board of Trustees of any of the foresaid reasons."

The various instances set out in the above provision would make it clear that in the event any of the trustees act against the interest of the trust shall cease to be trustee. The intention of the founder trustees was clear that no trustees shall act against the interest of the trust.

38. It is relevant to note that as far as the so-called alleged misdeeds and financial irregularities are concerned, there was a memorandum entered for purchase of immovable properties during the life time of A.N.Radhakrishnan, the Managing Trustee while he was in the helm of affairs of the trust. One of the

conditions stipulated under Clause-M in the amendment of trust deed under the heading "Managing Trustee" would make it clear that *the Managing Trustee shall have the powers of the Board of Trustees to administer the day-to-day administration of the trust*. Further Clause-M (vi) of the amendment of trust deed makes it clear that any policy decision, acquisition and dispose of properties, creation and establishment of new institutions, discontinuance, winding up of existing institutions, borrowing of funds with or without security on behalf of the trust and such other matters as may be specified by the Board of Trustees shall be done by the Managing Trustees only with prior approval of the Board of Trustees. There were memorandum of understandings entered on 11.08.2022 by the 1st defendant trust for purchase of two immovable properties, one measuring 8.38 acres of land situated at Thandalam village, Sriperumbudur for a sale consideration of Rs.47.00 Crore from one M/s.Kannammal Educational Trust and the other one measuring 39241 square feet situated in Velacherry through an auction conducted by an Asset Reconstruction Company viz., Pegasus for a sale consideration of

Rs.59.17 crore. The decisions to purchase the above said properties were taken by A.N.Radhakrishnan while he was the Managing Trustee. Whether such decisions were taken by the Managing Trustee at that point of time with the approval of the board of trustees or not is all matter of evidence and the validity of such decisions can be tested only at the trial on evidence to be let in by either party that too in the other suits filed for scheme decree and not in the present suit.

39. Be that as it may, only for the limited purpose of deciding this original application, now, it has to be seen whether the plaintiffs have acted detrimental to the interest of the trust.

40. The letter dated 15.12.2022 addressed by the plaintiffs to the bankers had triggered the Managing Trustee to invoke clause-E of the amendment of trust deed dated 11.08.2021. Those letters were addressed to different bankers. The letter dated 05.04.2021 addressed by Meenakshi Academy of Higher Education and Research (MAHER) would clearly go to show that after A.N.Radhakrishnan, the then Managing Trustee of the 1st defendant trust had started operating the

accounts, on the basis of a resolution dated 25.03.2021, he had authorized the Rector, Vice Chancellor, Registrar and Finance Officer to maintain and operate the bank accounts. The plaintiffs by their letter dated 15.12.2022 requested the bankers not to allow operations of the bank accounts till such time decision is taken in this regard. Whereas letter dated 05.04.2021 would reflect that A.N.Radhakrishnan had authorized the other members of the trust to operate the bank accounts even during his life time.

41. Clause-P in the Amendment of Trust Deed dated 11.08.2021, stipulates thus:-

> "P. Finance and Accounts:-
>
> (i) The Managing Trustees shall open one or more bank accounts in the RBI schedule banks wherein shall be deposited all moneys and contributions received by the Trust and maintain the bank accounts. The Trust shall cause to be maintained proper books of accounts required by law and therein shall be entered a true record of receipts and expenditures of the Trust. The books of accounts shall be

subject to audit periodically by a qualified Chartered Accountant.

(ii) The Managing Trustees to open bank accounts on behalf of the Trust and to operate the same only by the Managing Trustees. The power to borrow funds, and create mortgage/lien for implementing and carrying out the objects and purposes of the Trust, from any Bank, Banks or financial Institutions, on security or without security on such interest prevailing in the Banking Institutions and to execute necessary security documents on behalf of the Trust for such borrowings."

The above clause would make it clear that Trust Deed itself authorise the Managing Trustee to operate Bank Accounts. Accordingly bank accounts were operated as per the existing practice. While so suddenly, the plaintiffs sent a letter requesting to stop operation of bank accounts.

42. The plaintiffs themselves pleaded in the plaintiffs that the letter dated 15.12.2022 was addressed to various bankers in which the 1st defendant trust maintains its accounts requesting them to keep the operation of the accounts in

abeyance until the EGM which was scheduled on 27.12.2022 is over and decision is taken in the EGM. The plaintiffs have also sent a letter dated 16.12.2022 to all the Educational Institutions under the 1st defendant trust informing them that any instructions given by any single or more than one trustee should not be acted upon by any Head of the Institution and the failure to follow the instructions would result in severe disciplinary action against the Head of Institution. Thus, the very intention of the plaintiffs at the relevant point of time in the opinion of this court was to see that some how or other the bank accounts were not operated. It is relevant to note here that the 1st defendant trust runs various religious and educational institutions as set out in the plaint. The letter, dated 15.12.2022, sent by the plaintiff to the bankers would indicate that after the death of A.N.Radhakrishnan on 03.12.2022, the plaintiffs were not happy with the permission given by A.N.Radhakrishnan authorizing the other trustees other than the plaintiffs to operate the bank accounts. Only under such circumstances, the plaintiffs issued letters to the bankers requesting them to keep the operation of the

1st defendant trust's accounts in abeyance till such time an appropriate decision is taken by the board of trustees. This fact in the *prima facie* view of this court would go to show that several institutions run by the trust would have found it hard to run its institutions without money and faced serious consequences. If really the plaintiffs were not satisfied with the manner in which banks accounts were operated, the minimum reaction of the plaintiffs must have been to approach the competent court of law seeking appointment of interim administrator or seeking to frame a scheme to regulate the affairs of the 1st defendant trust. Instead, the plaintiffs had chosen to address a letter with the sole object to get the bank accounts of the 1st defendant trust and its institutions suspended until EGM which was scheduled to be concluded on 27.12.2022 as scheduled by them.

43. It would be more appropriate to state here that the so-called EGM was scheduled on 27.12.2022 by giving only 3 days time from the date of notice dated 23.12.2022 thereby giving a complete go-by to the mandatory condition that there shall be a minimum of 7 days gap between the communication fixing the date for

meeting and the date of meeting, excluding both days and EGM was conducted as scheduled and certain resolutions were also passed in the EGM. Whether such EGM was conducted following the mandatory terms contained in the amended trust deed or not is matter of evidence and can only be gone into at the stage of trial. Similarly, there was any urgency to call for such meeting waiving the mandatory notice period is also matter of evidence and can only be gone into at the stage of trial. Likewise, whether the 4th defendant assumed the office of the Managing Trustee on the death of her husband is also a matter of evidence, which cannot be gone into in the interlocutory application.

44. These facts would go to show that the plaintiffs were not happy with the administration of the University in the hands of the 5th defendant. In fact, the 5th defendant was at the helm of affairs of the University even in 2018-19 when the then Managing Trustee-A.N.Radhakrishnan was controlling or administering the affairs of the 1st defendant trust. Therefore, the act of the plaintiffs in sending letter to the bankers seeking suspension of accounts of the 1st defendant trust and its

institutions is nothing but an act detrimental to the interest of the 1st defendant trust and it would amount to anti trust activities as put forth by the learned senior counsel for the defendants and as such, the defendants had chosen to invoke clause-E of the amendment of trust deed dated 11.08.2021 and intimate the automatic cessation of the plaintiffs from the hereditary trusteeship by way of letter dated 07.01.2023 which cannot be found fault with at this stage as it is all matter of evidence. The materials placed before the court would, in fact, indicate that even prior to induction of plaintiffs as hereditary trustee under the amendment of trust deed, the 5th defendant was assisting A.N.Radhakrishnan, the then Managing Trustee from 2019 and she was also authorized to operate the bank accounts. In such view of the matter, whether the letter dated 07.01.2023 is not valid in the eye of law or not is a matter of appreciation of evidence which cannot be decided at present.

45. Further, insofar as the alleged purchase of immovable properties pleaded in the plaint is concerned, it is relevant to note that a memorandum was executed

by the then Managing Trustee - A.N.Radhakrishnan as per the order dated 22.12.2022 passed by the learned District & Sessions Judge, Kancheepuram in O.P.No.21 of 2010 which was filed by one Kannammal Educational Trust, Vandalur, Chennai 600 048 and therefore, whether prior approval was obtained from the board or not is all matter of evidence and the same also cannot be gone into at this stage.

46. Besides the letter dated 15.12.2022 sent to the bankers (which are available in the typed set of papers at page Nos.211 to 242 in Vol.II) another letter dated 16.12.2022 was sent by the plaintiffs to all the Heads of Institutions informing them not to act upon any instruction given by any single or more than one trustee and the failure to follow the instructions would result in severe disciplinary action against the Head of Institution. This letter dated 16.12.2022 is available at Page No.243 of the typed set of papers. This conduct of the plaintiffs would clearly indicate that they are interested in taking over the administration of the trust from the hands of the 4th defendant and they are not happy with the 5th

defendant sitting in the helm of affairs of the MAHER and operating the bank accounts of the MAHER. Here it is relevant to note that on 22.09.2021, A.N.Radhakrishnan, the then Managing Trustee and Chancellor of Meenakshi MAHER, himself sent a letter to the Indian Bank, authorizing the 5th defendant who has been the Rector of MAHER as a joint signatory along with him. This letter is found place at Page 381 (Vol.II). Another letter dated 13.09.2022 sent by A.N.Radhakrishnan to Indian Bank, MAHER Branch,Enathur, would also go to show that as Chancellor A.N.Radhakrishnan, for operational convenience, authorised the 4th defendant as one of the joint signatory along with the existing authorized signatories viz., A.N.Radhakrishnan, the then Chancellor of MAHER and Mrs.Jayanthi Radhakrishnan (5th defendant). This letter is found place at Page 382 (Vol.II).

47. The other letter dated 26.12.2022 (found at page No.276-Vol.II of the typed set of papers) would make it clear that the 2nd plaintiff sent a letter to the DGM,Office of the Field General Manager, Indian Bank, Chennai 600 008, while

denying the alleged resolution dated 25.03.2021, it was once again reiterated and requested to freeze all the accounts pertaining to the 1st defendant trust till such time pending issues are fully resolved and proper communication is sent by the trustees after the scheduled meeting on 27.12.2022.

Equitable Remedy:

48. When a person approaches the court for equitable remedy, the conduct of such person has to be seen **[Vide Gujarat Bottling Co. Ltd. v. Coca Cola Co. - (1995) 5 SCC 545].** When the plaintiffs have not raised any objection as long as A.N.Radhakrishnan, who is none other than the father of the plaintiffs 1 and 2 and grandfather of the other plaintiffs and the then Managing Trustee was alive and it was he who allowed the 5th defendant to continue in the helm of affairs of the institutions run by the 1st defendant and appointed the 5th defendant as hereditary trustee along with the plaintiffs. The moment immediately after the then Managing Trustee – A.N.Radhakrishnan fell ill, the plaintiffs started making certain allegations which in the *prima facie* opinion of this court would only

indicate that only in order to capture the day-to-day administration of the 1st defendant trust, the plaintiffs indulge in such activities. Even when the 4th defendant, the mother of the plaintiffs 1 & 2 and 5th defendant and the grandmother of the other plaintiffs has been actively discharging her duties and responsibilities as the Managing Trustee of the 1st defendant trust. Without even calling for any meeting, straight-away the plaintiffs had chosen to address letters to the bankers requesting them not to allow the 1st defendant trust to operate the bank account. Such conduct of the plaintiffs would certainly amount to anti-trust activities. The very intention of the founder trustees while appointing the hereditary trustees was that no trustee shall act against the interest of the trust and, in case, if any person becomes undischarged insolvent, or is convicted for an offence involving moral turpitude or acts against the interest of the trust or mentally insane or physically incapable of discharging the duties of the trustees or resigns or removed by the board of trustees on any of the aforesaid reasons, he or she ceases to be the trustee. Therefore, the letter dated 07.01.2023 issued by the 4th defendant to the plaintiffs is a mere correspondence communicating automatic cessation of the plaintiffs from the hereditary trusteeship as per the amendment of trust deed dated 11.08.2021 and it cannot be said that the plaintiffs were removed from the trusteeship under such letter.

49. Therefore, the contention of the learned senior counsel for the plaintiffs that there is no provision in the trust deed for automatic cessation of trusteeship citing anti trust activities cannot be countenanced. The intention of the founder trustees of the 1ts defendant trust in the amendment of trust deed was to send out a person who acts detrimental to the interest of the trust by including a stringent clause under Clause-E of the Amendment of Trust Deed dated 11.08.2021 would get diluted if the defendants are restrained by way of interim injunction from interfering with the applicants' right to discharge their duties and functions as the Hereditary Trustees of the 1st defendant trust pending disposal of the suit in C.S.No.26 of 2023. Moreover, it would only create further complications for the simple reason that the plaintiffs are not, in fact, happy with the 5th defendant, who

is the sister of the plaintiffs 1 and 2 and aunt of the plaintiffs 3 and 4, running the institutions and assisting the 4th defendant founder trustee and the Managing Trustee. When the plaintiffs and the 5th defendant are at loggerheads, at this stage, if the plaintiffs are again allowed to take part in the administration of the trust that will definitely lead to create chaos and confusion and it would only complicate the issues further.

50. In view of the above discussions, this court is of the firm view that the plaintiffs/applicants have not established *prima facie* case and balance of convenience in their favour. Further, no irreparable injury would be caused to the plaintiff, if injunction is not granted since they can still protect the interest of the 1st defendant trust in the pending unnumbered suits which have been filed for framing schemes. However, this court is of the view that till such schemes are framed in the other civil suits which are yet to be numbered, the present trustees, who are at the helm of affairs of the trust shall continue with the administration of the trust. But, at the same time, considering the nature of the trust and also the fact

that at present the 1st defendant trust is under the administrative control of the Managing Trustee (4th defendant) and the only other existing Hereditary Trustee (5th defendant), this court in exercise of its *parens patriae* jurisdiction directs the defendants 4 and 5 that they shall render accounts before this court in the scheme suits once in six months. Further, the defendants 4 & 5 shall not transfer or alienate any of the immovable properties belonging to the 1st defendant trust without permission of the court in the scheme suit.

51. Coming to the removal of a trust from the public trust, the learned senior counsel for the plaintiff relying upon the judgement of the Hon'ble Supreme Court in the case of **S.Meganathan v. Sri Devi Karukariamman Educational Trust [(2017) 8 MJ 686]** would submit that trustees of a public trust can be removed only under Section 92 of CPC even for breach of trust. As already discussed above, the letter dated 07.01.2023 is only an intimation of automatic cessation of trusteeship and not removal from entirety. Clause-E of Amendment of Trust deed dated 11.08.2021 governs automatic cessation from the trusteeship. However, at

the risk of repetition, it is made clear that this is only the prima facie view of this court and the question of validity of the letter dated 07.01.2023 would only be decided at the trial on evidence to be adduced by either party.

52. The judgement relied on by the learned senior counsel for the plaintiffs in the case of **State Bank of India v. P.Soupramaniane [(2019) 18SCC 135[** would not apply to the facts of the present case as the 2nd plaintiff was not ceased to be the trustee on the ground of moral turpitude and whereas he and the other plaintiffs were ceased to be the trustees on the ground of their acts against the interest of the 1st defendant trust.

53. In view of the foregoing discussions, this court is of the prima facie view that the plaintiffs do not satisfy the principle of triple test for the grant of interim injunction against the defendants.

In the result, the Original Application is dismissed.

Index : yes / no 18 ..04..2024
Neutral Citation : yes/no
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N.SATHISH KUMAR.J.,

kmk

Pre Delivery Order
in
O.A.No.80 of 2023
in
C.S.No.26 of 2023

18..04..2024