



WEB COPY



CRP.No.1100 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1100 of 2020
and
CMP.No.5996 of 2020

- 1.M.S.Mohammed Yousuf
- 2.Suyam Prakash
- 3.V.R.Garthami
- 4.S.Muzammil
- 5.Dowlat Nisha
- 6.Shabana
- 7.Anees Ahameed
- 8.K.A.Ismail Rafique

... Petitioners

Vs.

- 1.Madarsa Masjidun Nabavi Sallallahu Alaihi Vasallam Trust
Suramangalam
Rep.by its Trustee A.Mohammed Ghouse
No.80, Thuffal Ahamed Street, Fort
Salem 636 001.
- 2.The Sub-Registrar
Suramangalam, Salem District
- 3.The District Collector
Salem.

...Respondents



CRP.No.1100 of 2020

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to strike-off the plaint filed in OS.No.280 of 2019 on the file of the Additional District Munsif Court IV, Salem, by allowing the CRP.

For Petitioner : Mr.S.Anil Sandeep
for M/s.Law Vision

For Respondents : Mr.R.Narendran for R1
Mr.V.Jeevagiridharan for R2 & R3

ORDER

This Civil Revision Petition is filed seeking to strike off the plaint filed by the first respondent seeking injunction restraining the petitioners from encumbering the suit properties.

2. According to the first respondent, the suit properties were originally purchased by one Hajee V.Mohammed Sadiq, in his name and in the name of his wife Aiysha Sidicka under registered sale deeds dated 13.11.2002 and 18.02.2005. It was also claimed by the first respondent that the above said Hajee Mohammed Sadiq and his wife Aiysha Sidhicka orally gifted the suit properties in favour of the first respondent's trust and handed



over the physical possession. It was also claimed by the first respondent that the petitioners herein who are all legal representatives of the above said Hajee Mohammed Sadiq and Aiysha Sidicka are making attempt to encumber the suit property with the third party by entering into a sale agreement. Therefore, the first respondent filed the present suit seeking injunction as mentioned above.

3. The learned counsel for the petitioners submitted that Hajee Mohammed Sadiq and Aiysha Sidicka earlier acted as Managing Trustee of the first respondent trust and hence, the alleged oral gift by the first respondent in favour of the respondent trust will amount to donor making gift of his property in favour of himself and such a gift cannot be allowed in law and therefore, the present suit filed by the first respondent is not tenable in law and the same is liable to be struck out from the file.

4. As per the allegation found in the plaint, Hajee Mohammed Sadiq and Aiysha Sidicka orally gifted the property in favour of the first respondent trust on 23.12.2016. Whether the oral gift as alleged by the first



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respondent in favour of the first respondent trust is true or not is a matter to be decided at the time of final disposal of the suit. It is also open to the petitioners to file appropriate application seeking rejection of the plaint, if the petitioners are advised so. Therefore, when the petitioners are having effective remedy before the Court below, this Court is not inclined to exercise its supervisory jurisdiction under Article 227 of the Constitution of India, as per law down by the Hon'ble Court in ***Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and Ors. Vs. Tuticorin Educational Society and Ors.***, reported in ***MANU/SC/1365/2019***. Hence, the Civil Revision Petition is dismissed with liberty to the petitioners to raise all of their objections before the Court below. It is always open to the petitioners to file an application for rejection of the plaint, if so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

24.01.2024

Index : Yes / No
Internet : Yes / No
dna



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- 1.The Additional District Munsif Court IV, Salem.
- 2.The Sub-Registrar
Suramangalam, Salem District
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